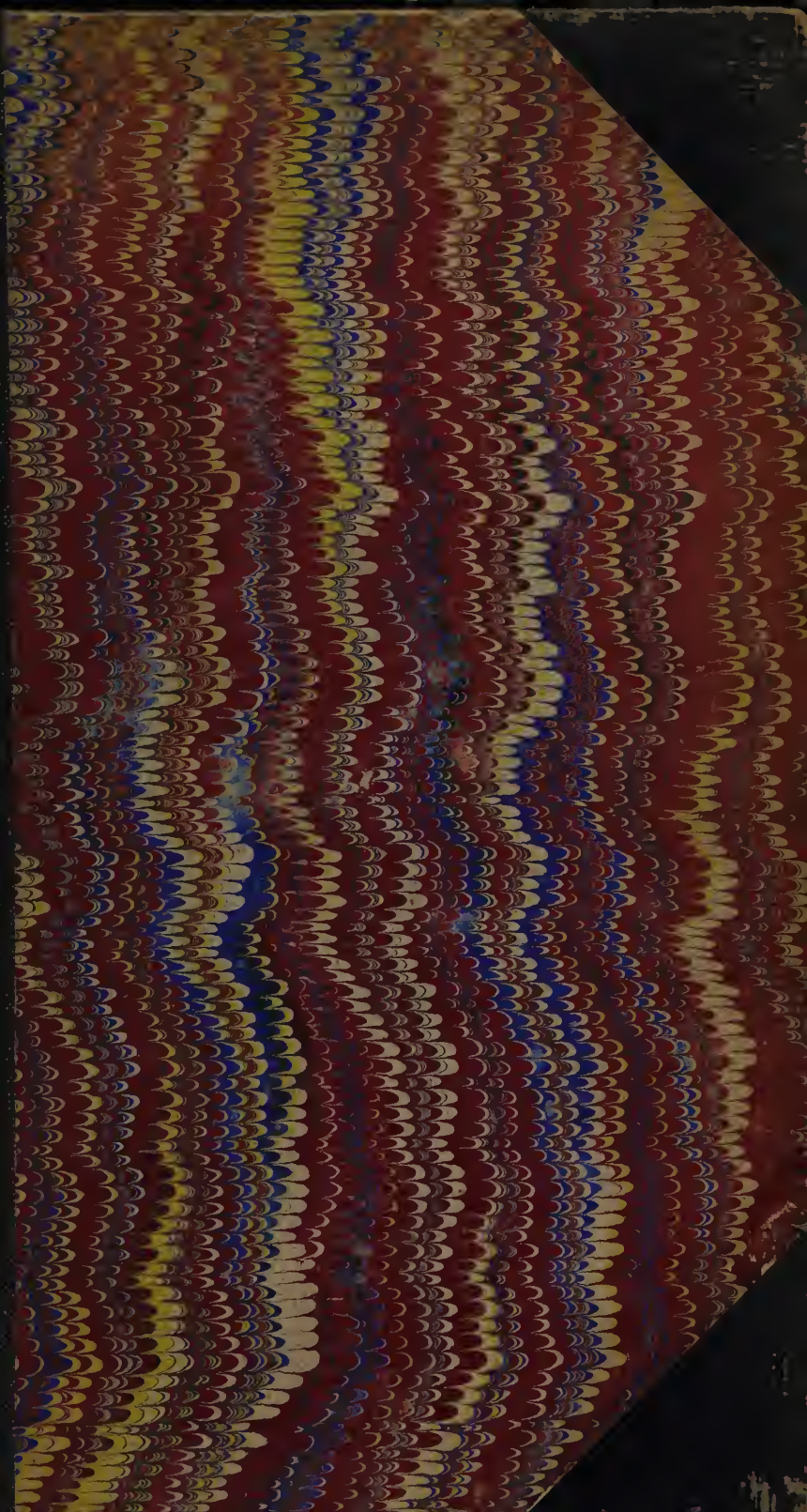


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REVIEW, OPINIONS, &C.,

OF

B. J. this cover is from
DR. CHARLES A. LEE, AND OTHERS,

OF THE

TESTIMONY OF DRS. SALISBURY AND SWINBURNE,

ON THE

TRIAL OF JOHN HENDRICKSON, JR.,

FOR THE

MURDER OF HIS WIFE, BY POISONING.

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DEDICATION.

HON. SAMUEL L. SELDEN,

JUDGE OF THE SEVENTH JUDICIAL DISTRICT

OF THE SUPREME COURT OF THE STATE OF NEW-YORK.

SIR: I dedicate to you in the following pages, a collection embracing the voluntary opinions, views and criticisms, of many and the most leading eminent Chemists and Physicians in the country, upon the medical and chemical testimony of Drs. Swinburne and Salisbury, on the trial of my son, John Hendrickson, Jr. My object in doing so, is to present to the world in a body, all the information obtained on the subject connected with the science of medicine, in a form that will perpetuate it in history, and be useful hereafter in the administration of justice, when the excitement of the times shall have passed away. It is not my purpose to express any opinion, whatever, as to who are right or who are wrong on the questions of science involved in this case. The duty of passing judgment I shall cheerfully leave to the impartial reader, whose mind, free from popular prejudice and personal resentment, will be the more competent to the discharge of this task, in accordance with the dictates of humanity and justice. If you shall find that it contains serious reflections upon the administration of justice, be assured that they are in no wise intended to apply to you, as I have every reason to believe your character for private purity, exalted integrity, and judicial learning, is free from reproach, and that popular prejudice or personal favor have not as yet, warped your understanding or perverted your judgment from the path of honesty and justice, in passing upon the rights of the citizen, affecting life, liberty, and property.

Whatever may be the sorrows for the untimely and premature deaths of a son and husband, the latter resulting from the former, I shall not attempt to express them here. That you may long enjoy the blessings of life and health, with increasing honors, and walk in the ways of justice and mercy, is my sincere wish.

CATHARINE HENDRICKSON.

Trial of John Hendrickson, Jr., for the Murder of his Wife.

AT A COURT OF OYER AND TERMINER, *of the Third Judicial District of New-York, held in the County of Albany, at the City Hall, in the City of Albany, on the 13th day of June, 1853 :*

PRESENT, HON. RICHARD P. MARVIN, Jamestown, N. Y.
CORNELIUS VANDERZEE, }
SAMUEL D. SCHOONMAKER. } ASSOCIATE JUSTICES, Albany Co.

For the Prosecution.

ANDREW J. COLVIN, DISTRICT ATTORNEY, }
LEVI S. CHATFIELD, ATTORNEY GENERAL. } Albany.

For the Defence.

HENRY G. WHEATON, ESQ., }
WM. J. HADLEY, ESQ., } Albany.

Jurors.

JAMES JOHNSON,	Watervliet.
OAKLEY OSBORN,	"
VISCHER FONDAY,	"
ABRAHAM HARRINGTON,	"
JACOB MARKLE,	"
MYNDER BLESSING,	Guilderland.
JOHN VAN HEWSEN,	"
JOSHUA H. BEEBE,	"
ALANSON VAN AUKEN,	New Scotland.
JACOB VAN OLINDA, ..	"
JOSEPH RELYEA,	Bethlehem.
JAMES ARMSTRONG,	Knox.

The following members of the Court of Appeals, constituting a majority, refused to grant a new trial :

Judges.

AMASA J. PARKER, Albany.
ALEXANDER S. JOHNSON, Albany.
HIRAM DENIO, Utica.
CHARLES H. RUGGLES, Poughkeepsie.
HENRY P. EDWARDS, New-York.

"FOLLOW NOT THE MULTITUDE TO DO EVIL."

THE REVIEW, and Opinions of Dr. CHARLES A. LEE and Others, on the Chemical and Medical Testimony of Dr. JAMES H. SALISBURY and Dr. JOHN SWINBURNE, on the Trial of John Hendrickson, Jr., for the Murder of his Wife, by poisoning.

Boston, April 12, 1854.

THURLOW WEED, Esq., Editor of Evening Journal:

DEAR SIR:—As the case of the unfortunate man, John Hendrickson, Jr., has now been acted upon by the highest courts, and appears to be rapidly approaching a dreadful termination, I deem it proper that the public, who have taken a deep interest in this case from its commencement, should be rightly informed respecting the opinions entertained by almost all the chemists of the country in regard to the scientific evidence upon which the prisoner was convicted.

The testimony of Dr. Salisbury and Dr. Swinburne, as reported by Messrs. Barnes and Hevenor, has been examined, or submitted to the following gentlemen, for opinion, as practical chemists or scientific experts:—Dr. A. A. Hayes and Chas. S. Jackson, State Assayers of Massachusetts; Prof. Benj. Silliman, Jr., of New Haven; Prof. J. Laurence Smith, of Louisville, Ky.; Drs. Torrey and Chilton, and Mr. Wurtz, of New-York; Messrs. Craw and Bunce, of New Haven; Dr. L. D. Gale, Chemical Examiner of the Patent Office; Dr. A. D. Bache, Superintendent of the U. S. Coast Survey; Prof. Schaffer, of the Patent Office; and Prof. James Henry, of the Smithsonian Institute, Washington.

It is the opinion of all these gentlemen, to which I would also subscribe my own, that Dr. Salisbury was entirely mistaken; and that by no possibility could he, by the process described in reported testimony, have detected aconite, even had it been present in ten times the quantity alleged to have been administered. In regard to the guilt or innocence of the prisoner, we express no opinion; we have only looked at the scientific testimony, which we believe to be entirely unreliable, and this opinion we are prepared to sustain to any reasonable extent.

Under these circumstances, it is due to every claim of justice, science, and humanity, that some investigation should yet be made by the constituted authorities. To execute John Hendrickson, Jr., without such an inquiry, would be nothing more nor less than a judicial murder. Trusting that these remarks will at least awaken public attention to this important subject, and reminding you that it is better that ten guilty should escape rather than one innocent should perish,

I remain yours, very respectfully,

DAVID A. WELLS.

NEW-YORK, April 21, 1864.

I have read the printed report of the trial of John Hendrickson, Jr., for the murder of his wife, by poison, and have examined attentively the testimony of Dr. James H. Salisbury, in which his chemical experiments on the stomach of Mrs. Hendrickson are detailed, and am of opinion that the presence of aconite was not demonstrated by those experiments.

CHAS. T. JACKSON, M. D.,
Assayer to the State of Massachusetts,
Geologist and Chemist.

My attention has been called to the chemical evidence given by Dr. Jas. H. Salisbury, in the trial of John Hendrickson, Jr., for the murder of his wife, and the expression of my opinion, of its accordance with well established facts, has been asked.

The evidence given by Dr. Salisbury is both medical and chemical. The medical part I shall pass without notice, as the conjectures with which it abounds seem to derive their support from the stated results of the chemical experiments which he describes.

The chemical evidence is of two kinds :

1st. That which is always *indicative*, founded on the reaction of bodies, called tests.

2d. Analysis, or the separation of the body indicated from others with which it may have been mixed.

If in a supposed case, the application of tests is made consistent with the rules of experimenting or laboratory practice, the indications they afford are guides in the subsequent steps necessary in obtaining proof.

In the report of the trial, on page 50, is the statement of the course pursued in testing for various substances, and which led to the *inference* that aconitine was discovered.

This course is throughout a departure from those rules which apply to such cases, and the most *common precautions* for *insuring accuracy* have been neglected. The colorations which were seized upon as indications of aconite are but *the usual changes produced by the same agents upon the fluids obtained from digestions of portions of a healthy stomach*.

The detection of aconite in the fluids operated on, is not a matter *dependent on skill*; it is chemically an impossibility, from the known character of the body itself. Turning to the so-called analysis, the first point which arrests attention, is the incision on the part of the experimenter, whether aconite is, or is not, volatile.

This leads to the adoption of two distinct processes for the separation of aconitine before any *proofs have been obtained of its existence in the fluid*.

The first of these processes would ordinarily give, as a final product, *ammonia*.

In the second, so many inconsistencies appear, that I must charitably conclude that it is incorrectly reported. But some result was obtained, and it accords with experience, that both *phosphate and lactate of lime* would have been carried from the fluids of the stomach and organs, and would have appeared as the precipitate described. At this point in the analysis the most convincing evidence might have been accumulated.

A substance removed from nearly every other body, offered itself for examination undisguised. Here, when the chemical methods applied would have answered all questions and forever silenced all doubts, we find the subject left unexamined further, chemically.

In expressing an opinion on this evidence, I am *compelled to state that no chemical result has been described which is evidence of the existence of aconitine, or its compounds, in the fluids or organs submitted to examination.*

Respectfully,

AUG'S A. HAYES, M. D.,
Assayer to the State of Massachusetts.

No. 16 Boylston-st., Boston, April 18, 1854.

Having read the evidence given by Dr. Salisbury at the trial of John Hendrickson, Jr., as reported by Barnes & Hevenor, I fully concur with the above opinion.

JOHN BACON Jr., M.D.,
Chemist to Massachusetts General Hospital.

I have carefully examined the testimony as given by Messrs. Salisbury & Swinburne, and fully concur in the above opinion.

DAVID A. WELLS, Chemist.

Boston, April 18, 1854.

We, the undersigned, have examined the testimony of Dr. Salisbury, touching the case of Hendrickson, and the evidence of the presence of aconite, as inferred from the chemical tests and examinations given in the report of Barnes & Hevenor, and we fully concur in the above opinion of Dr. A. A. Hayes.

New-Haven, April 20, 1854.

B. SILLIMAN, Sr.,
JAMES D. DANA,
B. SILLIMAN, Jr.,
JOHN A. PORTER,
Yale College.
JOHN TORREY, Prof. of Chemistry,
College of Phys. and Surgeons, N.Y.
W. H. ELLETT, late Professor of
Chemistry, &c., S. Carolina College.
JAS. R. CHILTON, M.D., Chemist,
EDWARD N. KENT, Chemist,
New-York.

I am authorized, on behalf of J. Laurence Smith, Professor of Chemistry in the Medical College of Louisville, Ky., and on behalf of Professors Gale and Schaffer, of the U. S. Patent Office, Washington, to say that they fully concur in the opinion expressed respecting the unreliability of the testimony of James H. Salisbury, given in the case of John Hendrickson, Jr.

DAVID A. WELLS,
On behalf of Messrs. Smith, Gale, and Schaffer.

OFFICE OF DISTRICT ATTORNEY OF CITY AND }
COUNTY OF NEW-YORK, April 22. }

MY DEAR SIR—I have great pleasure in furnishing to Prof. L. Reid, of this city, this letter of introduction. Prof. Reid occupies an eminent position as a chemist, and justly ranks among those whose scientific pursuits

have rendered them benefactors of society. I have had official and personal opportunities of testing his accuracy as a chemist and his worth as a man, and I commend him to your best regard.

With great respect, truly yours,

N. BOWDITCH BLUNT.

His Excellency, H. SEYMOUR.

To His Excellency, HORATIO SEYMOUR, Governor of the State of New-York:

SIR—I would beg leave respectfully to say to you, that from twenty-five years' experience as an Analytical chemist, and from experiments on aconite and aconitine, I am compelled to say that there is no evidence that aconite, or any of its compounds, were present in the parts of Maria Hendrickson analysed and experimented upon by Dr. Salisbury, and testified to by him, and reported by Barnes & Heynor. To my mind the tests, taste, and experiments on animals under the circumstances, and in the way they were made, are not evidence of the presence of that substance.

From a long experience in the analysis of parts of the bodies of persons supposed to be poisoned, I must say that I cannot place any reliance on mere morbid appearance either in man or animals.

Yours with respect,

LAWRENCE REID,

78 West 27th-street, New-York.

April 21, 1854.

To His Excellency, HORATIO SEYMOUR, Governor of the State of New-York:

SIR:—Impelled by a duty which I owe to a fellow being, now under the sentence of death for the alleged crime of murder, I am about to submit to your Excellency a statement of my opinion respecting the medical and chemical testimony which was given to the court and jury upon the trial. I allude to the case of John Hendrickson, Jr. And were my convictions of the truth of my statements less strong than they are, I should even now be silent.

Sir, no one than yourself better knows, that the organic and inorganic kingdoms are governed by law, and that for this reason we are competent judges of results, or effects, for these are true to themselves in all similar conditions, and to verify conclusions arrived at by others, we have only to imitate exactly the process and means which they point of; or we may disprove this statement by a resort to the proper method. Chemistry is pre-eminent for its exact methods and exact results, and no chemist now-a-days can put forth results, or statements of results, the truth of which may not be disproved or sanctioned by the whole body of this class of savans. The same great truths hold good in medical science, though we cannot always control the conditions which are necessary to secure those constant results as in chemistry; still, the agents which act upon the animal economy are also true to themselves; uniform in a great degree in the production of given phenomena. Opium, arsenic, prussic acid and aconite destroy life in their own peculiar modes, and leave upon the organs upon which they have exerted their peculiar forces their own peculiar marks and effects, and so uniform and constant are these effects upon the animal system, that they are regarded as laws of action. So, when the pathologist sets about an examination of a dead body, the life of which it is supposed has been destroyed by any of these agents, he expects to find certain phenomena, and if not found, he

justifies himself in the conclusion that the supposition is unfounded. If certain phenomena are observed, then he refers them to that agent whose peculiar mode of action upon the animal economy is known by former experience. Now the whole medical and chemical evidence in the trial of John Hendrickson, Jr., professes to be based upon former well known and well established experience, and it is for this reason that it was pressed upon the jury by the prosecution as worthy of belief; it is claimed to be consistent with established laws of the organic and inorganic kingdoms, and as consistent with the laws of the animal economy. It is not in this precise language that this doctrine is expressed, but it is virtually the ground upon which the conviction rests. It is now my purpose to show your Excellency that what was claimed as good and substantial chemical evidence on the part of the prosecution has no foundation in truth. That when either of these classes of testimony is brought to true and substantial tests it is not agreeable to established experience, and here the verdict, so far as it depended upon medical and chemical testimony, was wrong and unjustifiable.

1st. *The Chemical Testimony.*—The chemist, Dr. Salisbury, proceeds in the usual mode. He makes a solution of the suspected substances, and then resorts to the application of tests designed to detect the presence of any and all the destructive agents which are known to be employed to affect life and the integrity of the organs essential to the continuance of life. He finds no evidence of the presence of any destructive agent until he comes to aconite. Here his tests, according to his testimony, proclaim in unmistakable phenomena, the presence of *aconite*, an alkaloid, found in the monkshood.

The question now comes up, was Dr. Salisbury justified in his inferences respecting the presence of *aconitine*? If Dr. Salisbury is right, the same results as he states to have followed in his hands, and under his treatment, will necessarily follow in the hands of others in the treatment of aconitine in the ways he followed. If such results never follow, then Dr. Salisbury has present foreign bodies which he has overlooked, and which have modified most essentially his results. His tests are *sulphuric, muriatic and nitric acid*; with the first he obtains a *deep port wine or red color*; with the second a *light port wine or red color*; with the third a clear solution. The results of my experiments are as follows: sulphuric acid boiled with tincture of aconite (obtained from the same sample as that supposed to have been sold to a customer who it is alleged might have been John Hendrickson, Jr.) lost most of its red color and became quite pale; boiled with pure aconitine the solution remained colorless; and boiled with nitric acid the solution remained colorless. These experiments were repeated with the same results.

Dr. Salisbury's results cannot therefore be obtained when we deal with the well-known substance, aconite in tincture. If, however, we add to the tincture of aconite, oil or animal matters, then we obtain the red colors spoken of by Dr. Salisbury; or if we employ these matters by themselves we also obtain various red colors answering to Dr. Salisbury's description. We are therefore justified in the opinion that the tests set forth in his evidence, as indicative of the presence of aconite, are untrue; that the results he obtained were, on the contrary, due to the presence of organic matter, and hence entirely unworthy of credence; and what I state here respecting this evidence, is the belief of our best chemists in the Union.

Now, no one can see more clearly than your Excellency, that having started wrong, his whole subsequent course of experiments must be wrong also; for all his arrangements are now contrived to separate a given sub-

stance; he puts in requisition methods which he supposes can give him no other substance than *aconitine*, and if these are adapted to that body, they are adapted to no other, and yet the chemist has not obtained as yet a fact which, on the most favorable construction, indicates its presence.

To take up Dr. Salisbury's process, step by step, and comment upon each, may be regarded as unnecessary, especially when there are individual steps in these processes, which of themselves entirely disprove the truth of his evidence. I shall therefore advert to a single step in his process for obtaining *aconitine* from the body of Mrs. Hendrickson.

The objectionable step which I shall notice, is that the suspected matters are filtered through pure *animal charcoal*.

It has been shown by Stass, of Berlin, that the vegetable alkaloids are absorbed and retained by animal charcoal, where the fluid containing them is passed through this substance; where, for example, the tincture of *aconite* is filtered through this kind of coal. After being agitated with it until its coloring matter is removed, the active principle is retained along with the coloring matter, and the precipitate which is afterwards obtained by the agents used by Dr. Salisbury, perfectly inert. I have often verified the truth of these statements, employing the tincture of *aconite* as the substance operated upon, and have not only insulated the active principle in the animal charcoal itself, but have subsequently dissolved it out by alcohol. The active principle is therefore arrested by the charcoal, provided it is present at the beginning of his experiments. This of itself is enough to throw a dark shade of doubt over all of Dr. Salisbury's results, as stated by himself: and this view is confirmed when we compare Dr. Salisbury's statements and testimony with facts, e. g.: Dr. Salisbury obtains 1-20 to 1-25 part of a grain of pure *aconitine* from the stomach and viscera, where there could be only the 1-750 part of a grain present, provided an ounce of tincture was administered. This 1-20 of a grain of pure *aconitine* was given to a cat, which it by no means destroyed; but afterwards was killed with six drops of the tincture, which could not have contained the hundredth-part of the dose of *aconitine*, which it was alleged had been previously given. *That the positions I have taken are true, I am so well convinced, that I am ready to pledge a proof of them experimentally before your Excellency—experiments that shall show in the first place the falsity of Salisbury's indicative tests; the sulphuric, muriatic, and nitric acids; and in the second place, it shall be proved that the active principle of aconite is retained in the filters employed to remove coloring matters, and that the precipitate subsequently obtained, and which Salisbury supposed contained aconitine, does not contain a particle of this matter, and this is and must necessarily be the tenor of the testimony of all chemists of our country. Sir, there cannot be a greater scandal on the chemical science of our country than the fact that the chemical evidence, which is designed to sustain the prosecution, should be held up as evidence of guilt, and should be reported as such in our books of law and jurisprudence, and especially if it is to be made the occasion of an execution.*

Now, in all this I do not mean to speak harshly of Dr. Salisbury. He was my pupil in the laboratory for two or three years, and in common examinations he was quite competent; and in experimenting for arsenic, corrosive sublimate, and other metallic poisons, as well as for prussic, sulphuric acids, &c., I should certainly have confided in his results; and if either of the foregoing substances had been present in the tissues he tested, I have little doubt they would have been found. The mode of testing for these bodies is well

known ; but it is not so with aconitine ; and, having started wrong, it is by no means surprising that extremely erroneous results were arrived at in the end.

I am now to inquire in what light the foregoing conclusions are to be regarded by the side of the post-mortem examinations. Do the post-mortem examinations conflict with or sustain the views I have expressed ?

Of the phenomena observed, and which are claimed as evidences of the action of aconitine, I find pallor of countenance, rigidity of the limbs and voluntary muscles, congestion of the mucous membranes of the stomach and small intestines, corrugation of the stomach and small intestines, congestion of the mucous membranes, the presence of reddish mucus, emptiness of the stomach and small intestines, emptiness of the gall and urinary bladder. Some of these are of no importance, and can have no bearing upon the case, inasmuch as they occur in so many cases, under a diversity of circumstances. For example : pallor and rigidity of the urinary bladder explains very well the phenomenon of its vacuity or emptiness.

Of the other phenomena which were observed in Mrs. Hendrickson, we find congestion and corrugation of the mucous membrane. Now, if these states of the intestinal canal were due to the action of the aconite alone, they would, of course, possess some significance ; but they, too, are frequently observed in cases where no poison could be suspected ; they have no weight. I sustain this view by reference to a paper by the distinguished Dr. Horne, late of Philadelphia, (see 1st vol. of American Journal of Medical Science, pp. 13 and onward), where it is shown that ruga of the mucous membrane of the stomach are often due to a chronic inflammation of the stomach, and it may with truth be said, that not one of the appearances obtained by dissection favor the doctrine in the least, that they were due to the presence of aconite or any other poison whatever. I will place side by side the appearances which are due to the action of aconite, and those which are said to have been observed :

<i>Appearance in Mrs. Hendrickson's case.</i>	<i>Appearance where aconite has proved fatal.</i>
1st. Redness of the stomach and intestines.	1st. Inflammation of the stomach and intestines.
2d. Corrugation and contraction of the same.	2d. Corrugation nor contraction, not a specific effect, but may be present when the death is sudden in a variety of cases.
3d. Cavities of the heart empty.	3d. Congestion of the right side of the heart.
4th. Lungs healthy and natural.	4th. Lungs congested and filled with blood.
5th. Vena cava empty.	5th. Vena cava congested.
6th. Brain healthy, with its membranes natural.	6th. Brain and membranes usually engorged with blood.
7th. Excessive vomiting, inferred from the emptiness of the stomach.	7th. Circumstances prove no vomiting.
8th. Appearances not far removed from what is natural, unless they are seen in excessive contraction.	8th. Appearances are those which indicate the action of a strong irritant poison.

Dr. Salisbury, in his capacity of a pathologist, speaks of the redness of the mucous coats of the small intestines ; and it must be recollected that he is the only medical witness who had the opportunity of examining its state. But this examination was after many days, and hence this peculiar redness must be regarded as due to an extravasation of the coloring matter of the blood, and not to irritation caused by a poison. From the foregoing, then, if appearances prove anything, they prove the entire absence of aconitine and other irritant poison.

Dr. Salisbury tested for prussic acid and found none ; and this result may be regarded as confirmed by the post-mortem appearances, inasmuch where prussic acid has destroyed life, there is usually present its strong odor,

either from the blood, stomach, or brain, accompanied with engorgements of the vessels of the brain and effusion of the serum into the ventricle, while the organ itself is natural; also a turgid and full condition of the lungs and venous system, and an emptiness of the arterial system throughout the body. Your Excellency need not be told that the relations which the living tissues stand to these poisonous agents, can not be changed; neither can the law of specification. These deleterious substances act in their own peculiar modes, and they leave their peculiar marks; and if these marks cannot be found, we have no right to infer their presence.

In view, then, of all the results and all the information which I can obtain of the chemical and medical evidence given upon the trial of John Hendrickson, Jr., for the alleged murder of his wife, I can find nothing which goes to prove that the accused committed a murder through the agency of poison.

I am, most respectfully, your obedient servant,

EBENEZER EMMONS.

Hon. HORATIO SEYMOUR:

DEAR SIR:—I have reason to suppose that within a few days certain papers, addressed to me, will be laid before your Excellency, as to the chemical and medical testimony in the case of John Hendrickson, Jr.

It is due to myself to say that they were addressed to me without my knowledge,* I would however add, that being asked who were among the most competent analytical chemists in this country, and again, as to pathologists, I ventured to designate nearly all subscribing those papers, with some others.

I remain, very respectfully,

Your obedient servant,

T. ROMEYN BECK.

Prof. T. ROMEYN BECK:

DEAR SIR:—A pamphlet, entitled a Trial of John Hendrickson, Jr., for the murder of his wife, Maria, published by David M. Barnes and W. S. Hevenor, Albany, 1853, has been put into my hands, with the request that I would examine the medical testimony, and express to you an opinion on two points, namely: 1st, whether the post-mortem appearances as there reported authorize the conclusion that Mrs. Hendrickson came to her death by a poisonous dose of aconite; 2d, whether these post-mortem appearances sustained the opinion that she had vomited during the last hours of her life. I feel strongly the impropriety of assuming to sit in judgment on the deliberations of a high tribunal that had fully considered these questions, and had given its verdict and its sentence in full view of all the responsibilities with which those solemn acts were involved. I was therefore reluctant to undertake the task. But when I learned that the application was endorsed by your approval, I could not but feel that the service asked of me was justified by some good reason, and I consented to perform it. I have read the whole of the medical testimony recorded in this pamphlet—the most important portions of it carefully—and I cannot but confess to you, my dear Doctor, that I am pained and oppressed with the conviction that the medical witnesses for the prosecution have, in a main point of this case, abused the confidence with which criminal courts so often compliment the man of science. I do not say that they have procured the condemnation of an innocent man. With the

* A sentence is here omitted, referring to a remark of Dr. Clark, which, in the absence of the Governor, at Utica, I am now unable to supply.—T. R. B.

guilt or innocence of the condemned I have nothing to do, but I am fully persuaded that the inferential opinions touching both these questions, as expressed by these medical witnesses, are not warranted by the facts presented in their testimony. Had the question been—the presence of aconite in the blood, stomach and tissues being admitted—do the post-mortem appearances sustain such an admission? their affirmative answer would have met with universal approval. But I understand them to assert in substance, that these appearances, unaided by chemical investigation, are of themselves alone evidence of poisoning. I cannot see the grounds for such a conclusion. The condition of the stomach, intestines, gall bladder, urinary bladder, muscular system and face, on which this grave deduction was based, do not belong to poisoning alone. I would not criticise unjustly this testimony, yet it is perhaps right to say, that besides this hardy inference, there are two or three propositions, from the first medical witness, on page 34, that are so new to me, and at the same time so improbable, that it is difficult to persuade myself that they are correctly reported.

It is, however, no part of my present purpose to analyse this testimony. In short, then, independent of the chemical investigation, I do not find in the reported post-mortem appearances any sufficient ground for believing that Mrs. Hendrickson's death was produced by aconite, or by any other administered poison. I cannot see how this conclusion could be affected in any manner by the certainties that the woman did or did not vomit, so far as its scientific relations are concerned; but as it appears in the medical testimony that "one of the reasons for thinking that she died of poison was her having vomited," and as the husband is believed to have concealed all evidence of this effect of his crime, I can easily see that with the judge and jury the fact of vomiting may have been one of the cardinal points in the trial. The congested and contracted stomach, covered with reddish mucus, the contracted and congested duodenum, the* empty state of the small intestines, the half emptied gall bladder, the extreme pallor of the face, the slightly swollen tongue. Submit the facts to a jury of intelligent physicians, withhold from them the knowledge of previous chemical investigation, and I believe their unanimous verdict would be that the facts afforded no evidence that vomiting had occurred before death.

My own conviction is so strong on this point that I cannot suppress the expression of my surprise and sorrow that any respectable physician should have felt himself authorised to urge the opposite conclusion. My answer then to the 2d question is, that the post-mortem appearances do not, in my opinion, justify the inference that Mrs. Hendrickson had vomited during the last hours of her life. Finally, on the supposition that this poor woman did

* This statement is fully sustained by the post mortem examination of Mrs. Lagrange, late of the town of New Scotland, this county, who died suddenly in the first part of January last, (1855.) This lady had been in her usual health on the day of her death, and retired with her husband to bed at her usual hour. In the night, and not long after they had retired to rest, Mr. Lagrange, being still awake, and hearing for a moment a disturbed or difficult respiration, sprang out of bed, but the moment he was in a position to observe the countenance of his lady, life had fled, without a struggle or a movement of the limbs. She had eaten her meals as usual that day. The post mortem examination found the stomach and small intestines somewhat contracted and perfectly empty. Dr. Swinburne, who assisted in the examination was heard to say in view of this fact, that she must have been a very small eater. On inquiry of the husband it was ascertained that she was a hearty eater, and had taken her usual meal a few hours before her death. This single case shows how fallacious was the reasoning in the case of Mrs. Hendrickson. That she must have vomited, because her stomach and small intestines were empty. There is another point worthy to be noted. It was also ascertained on the trial of Hendrickson, that his wife would have struggled during the expiring moment, and hence have awakened her husband, forgetting, indeed, that in all sudden deaths struggles are unknown; certainly in the case of Mrs. La Grange there was no struggles.

not die of poisoning, the natural inquiry is, of what disease did she die? The post-mortem examination did not enable the medical witnesses to answer this hypothetical question, but so far as it is reported this examination, in my view, falls far short of the completeness which the vital issues at stake demanded. It is easy to form conjectures, and in this case it is as useless as it is easy, I will therefore hint at only one. Had it occurred to the chemist to examine the blood for urea; had the brain been examined before the thoracic vessels were cut; had the condition of the kidneys been thoroughly investigated, and their cells inspected with a microscope, it is possible—mark I do not say it is probable—that the case might have been relieved from one of its heaviest embarrassments. Should you desire my reasons for these opinions more fully, please inform me.

With highest respect,

A. CLARK,
Prof. of Pathological Anatomy, N. Y.

I was present at the trial of John Hendrickson for the murder of his wife during a part of the examination of Dr. Swinburne, and have read the report of the trial, and can fully concur in the opinion of Dr. A. Clark, expressed in the above letter.

Albany, April 27, 1854.

ALDEN, MARCH, M. D.,
Professor of Surgery.

I have read the report of the trial of John Hendrickson, by Barnes and Hevenor, and have also read the opinion of Alonzo Clark, M. D., do concur fully therein.

Albany, April, 27, 1854.

P. VAN OLINDA, M. D.

I concur fully in the opinion expressed in the above by Dr. A. Clark.

Albany, April, 27, 1854.

MASON F. COGSWELL, M. D.

I have read the letter of Prof. Clark, and concur fully in the opinion and conclusion therein expressed.

Albany, April 27, 1854.

THOMAS W. HUN, M. D.,
Prof. of Phi. and Mat. Med.

I have read the testimony in the trial of John Hendrickson, Jr., as published by Barnes and Hevenor, and concur in the opinion as expressed by Dr. A. Clark.

Albany, April 27, 1854.

JAMES H. ARMSBY, M. D.,
Prof. of Anatomy.

From an examination of the testimony in the trial of John Hendrickson, Jr., and also the letter of Dr. A. Clark, of New-York, I am fully satisfied that the views of the letter are correct.

Albany, April 27, 1854.

J. P. BOYD, M. D.

I have read the above letter of Professor Clark, I also attended the trial of Hendrickson, and do fully concur in the conclusions above referred to of Professor Clark.

BARENT P. STAATS, M. D.

*Extract from the minutes of the New-York Pathological Society,
Regular Meeting, April 26, 1854.*

Dr. Metcalf offered the following resolution :

Resolved, That the statement made by Dr. Swinburne, as printed in the report of the trial of Hendrickson, by Barnes & Hevenor, Albany, 1853, concerning the post mortem appearances as described by him in the case of Mrs. Hendrickson, in no wise justify the opinion that death was preceded by vomiting, or was caused by the administration of aconite—such appearances, especially those relating to the condition of the stomach, being often found in post mortem examinations when no vomiting had occurred, and when no aconite had been taken before death.

Resolved, That the post mortem examination, as detailed by Dr. Swinburne, is faulty, wanting in detail as regards the condition of several important organs, and omitting altogether to examine the trachea and larynx, affections of which are known to produce sudden death.

The resolutions were seconded by Dr. C. D. Smith, and, after a general expression of opinion by the members of the Society, were unanimously adopted.

We certify the above to be a correct transcript from the minutes.

JACKSON BOLTON, M. D.,
President of the New-York Pathological Society.

J. FOSTER JENKINS, M. D., Sec. N. Y. P. S.

I have read the trial of John Hendrickson, Jr., both as reported in the newspapers, and subsequently in the pamphlet form, and am of opinion, from what I know on the subject, that the presence of *aconitine* was not proved. Having frequently expressed the opinion since the conclusion of the trial, I do not decline to put it in writing.

T. ROMEYN BECK.

Albany, April 27, 1854.

The foregoing opinions, &c., were laid in a body before Horatio Seymour, Esq., the then Governor of New-York, but who, as it will be seen by his letter to Sheriff McEwen, refused to interfere, and John Hendrickson, Jr., was executed May 5, 1854, protesting his innocence to the last, and in the language of the Albany Argus, met his fate with composure. The following is the statement he made to his spiritual adviser, the Rev. Dr. Kennedy, an eminent divine of the Albany Dutch Reformed Church, on the day previous to his execution, which was intended to be addressed in letter form to his parents :

“My dear parents—To-morrow I am to die, and standing as I do on the brink of eternity, I wish to say to you, in the presence of that God before whom I am so soon to appear, that I am entirely innocent of the crime of murdering my wife. I did not give her poison. I do not know that any one gave her poison. She did not come to her death by violence of any kind, so far as I know. I believe she died a natural death. She did not vomit on the night of her death. I never knew that there was such an article as aconite in the world, until after I was in jail. Nor did I know it by any other name. I do not know that I have anything further to add, except to say some farewell words to my parents. But you will remember what I have said to you, and inform them of it. I wish you to make it public.”

It is probably right that we should here state that it was at the time of his making this statement orally, that William F. Aleo, the sheriff's deputy or clerk, interfered and prevented the doctor from taking down in writing any statements made by Hendrickson respecting his guilt or innocence, unless

he the sheriff first knew what it was. On this announcement, the doctor tore up the writing, and said he would not interfere with the rules of the jail. The statement, as we have given it, was a few days after made public by Dr. Kennedy, in the Albany Argus, from which we copy.

It further appears, by the Albany Morning Express of May 6th, 1854, that Governor Seymour had instructed the sheriff and his deputies, that Hendrickson should make no confession or statement without his knowledge. Such was the information imparted to his mother, sister and friends, while visiting him, by one of the deputies on the night of the same day, when he was denied the privilege of having pen, ink, and paper for that purpose—a course unprecedented under such circumstances. The only reason that can be assigned for such a course, taken in connection with the mode of his treatment by the persons having charge of the jail, who had been very active in trumping up evidence and circulating evil reports of him, that they might, in the event of his not making a confession, put into circulation words uttered by him in his last moments, that would be tantamount to an admission of guilt, which would justify their course throughout.

EXECUTIVE DEPARTMENT, }
ALBANY, May 2, 1854. }

To the Sheriff of the County of Albany:

Immediately after the decision of the Court of Appeals in the case of John Hendrickson, Jr., who is under sentence of death for the murder of his wife, I examined the testimony which was sent to me, in pursuance of the direction of the statute, by the Judge who presided at the trial. *I found no reason for any interference on my part with the sentence of the court. I immediately informed the District Attorney of the county of my conclusions, and I directed you to announce to the prisoner that I could not commute his sentence nor postpone his execution.* I have also at different times urged upon you and his friends the duty of not allowing the unfortunate convict to indulge any expectations of a respite or a commutation of his punishment. I have given to every representation careful and respectful consideration, but in view of all the facts, evidence and circumstances of the case, I have not seen sufficient reason for changing the decision I have heretofore made. It is your duty to prepare to execute the sentence of the Court, and to prevent the prisoner from being misled by any false hope or unfounded encouragement.

Respectfully, your's,

HORATIO SEYMOUR.

The Governor was at no time solicited by any persons further than to suspend the execution, until a more thorough investigation could be made of the medical and chemical testimony of Drs. Swinburne and Salisbury, the correctness of which was at the time seriously questioned by some of the most eminent chemists and physicians in the country; of this circumstance he was fully aware at the time, nor was this the first application of the kind that had ever been made. A similar case occurred when De Witt Clinton was Governor. A man had been convicted of poisoning his wife, but doubts subsequently arising, whether from the medical and chemical testimony he had been properly convicted, a commission was issued, instituting a further inquiry as to the probabilities of her death by poison, which resulted in sustaining the evidence on the trial, and that the conviction was right. Of this circumstance the Governor was not ignorant at the time. The course pursued in that case was just and humane, evincing a proper re-

gard for human life on the one hand, and a desire to protect the community on the other. It is also reasonable and just to infer, that the framers of the constitution, when they invested the Governor with this power over life and liberty, intended that it should be exercised and made useful in this very class of cases; for it might well happen, that after conviction, and when the courts of law had found no error in the proceedings on the trial, facts and circumstances might arise which would alter the complexion of the case, as to the evidence from guilt to innocence, or at least create serious doubts as to the justice of the conviction; and that in the absence of such power being lodged where it could be promptly exercised, the innocent would suffer unjustly in being deprived of life and liberty. But if they did not intend that Executive clemency should be extended to cases of this description, they certainly did not mean that it should be to cases where there was neither dispute nor doubt as to the facts upon which the party had been found guilty. And what is so very singular, that at the time the application was pending before him, he stated that he placed no reliance upon the testimony of Drs. Swinburne and Salisbury (the only evidence offered on the part of the prosecution to show that she came to her death by poison), but relied on the moral portion of the evidence as showing guilt, when in reality there was none.

But among the pretences set up for not interfering was, that the jury had determined the question of guilt, which to him was final and conclusive. If this position be correct in principle, then it follows as a matter of course that no Executive would have a right to interfere in any case, and the prerogative of Executive clemency would be an absolute nullity, as this power cannot be exercised until after the finding of the jury. An additional reason was also assigned, probably not the controlling one, which has, however, a sort of show of plausibility—more so, we think, than the one just given—that if the party was innocent it would be wrong to commute his punishment to imprisonment, and if he was guilty he ought to be executed, and we presume from what followed that he concluded it was better to let the law take its course, and run the risk of shedding innocent blood.

In connection with such a view of the case, it does seem to us that there was a willingness on his part that it was necessary for once that public sentiment should become the law of the land, and that the populace should have a victim. No matter what amount of scientific evidence of the very highest character should be brought to bear in the case, by way of rectifying the errors in the medical and chemical testimony of the prosecution on the trial, it would all have been unavailing. For the justice of our position we refer the reader to that portion of his letter which is italicised, and we shall also quote from an article published in an Albany daily paper, the writer of which was in daily communication with him, viz.: “The justice of the verdict and of the *execution receive the sanction of all classes of persons.* Never did we know a case of capital punishment to which was awarded such a universal sanction by *public sentiment.* The attempt to obtain a *pardon or commutation* from the Governor by an array of *medical and chemical testimony*, instead of *checking the course of opinion*, seemed to swell its volume and give it new impetus.” It will also be seen, by recurring to Dr. Emmon’s letter to him on the subject, that an offer was made to prove the unsoundness of the several positions assumed by Dr. Salisbury, the only chemical witness for the prosecution on the trial, in a manner, we think, that entitled it to his deliberate and serious consideration, and ought to have been conclusive with him as to the justice and propriety of making further inquiries into the matter. Nor did there appear to be any disposition on

his part to make any inquiries as to the causes of the woman's death, that he might be satisfied beyond the peradventure of a doubt further than that which was with difficulty brought to his attention, and pressed upon his consideration a few days before the execution, an event that was not delayed one moment beyond the time fixed by the Court, for in this case there was no "law's delay," as the courts kept pace with the march of "public sentiment."

We shall not attempt to contrast the course of the two governors in cases so similar in their bearing, and alike great in their importance; to do so would be an act of folly, a useless task; for they lived at periods remote from each other, and in the discharge of their official duties were no doubt actuated by motives as opposite each other as day is to night.

Now, we do not mean to speak harshly of the Governor's want of independence and firmness in not resisting popular prejudice and excitement; for we are well aware that the prerogative of Executive clemency had in this instance been usurped, and the exercise of its humane attributes forestalled, by the Judge who tried the cause; and to remove all doubts as to the correctness of this assertion, we shall quote the precise language of Judge Marvin, while pronouncing the sentence of death, having arrogated to himself conclusions of guilt, from facts not proved, in a tone incompatible with the occasion, exhibiting that species of inhumanity so often indulged in by our modern (not model) Judges, that of harrowing up the feelings of the victims of the law by taunts and allusions upon their former course of life—a practice that cannot be too severely condemned, as being in violation of every principle of humanity, and foreign to the discharge of that part of a judge's duty, which is merely to pronounce the sentence of the law. In such a spirit and temper of mind he winds up his tirade of abuse, saying: "*In your case, Hendrickson, the Executive will not pardon. It is best that you should understand this now. No Governor in your case will interpose his pardon. You should then prepare for death.*"* Thus were the gates of justice and mercy closed forever. The end shows that the Governor obeyed the mandate of the Judge. It would be difficult to find a parallel case of judicial assumption, unless we exhume from the grave of time the sanguinary exploits of that dog-star of the English judiciary, who blazed in the west of England during the *red assizes*, whose only excuse was, when vengeance overtook him, that in the exercise of his judicial power he had fallen short of the inexorable demands of his royal master, whose flight he was not permitted to follow, but left to end his days in prison, full of sorrow and contrition. We wish that we could here drop the Judge, in the same temper of mind that we do the Governor. But our duty to the living and justice to the dead compel us to continue our remarks on another

* By way of contrast, we give the brief, pithy and humane remarks of Judge Flynn, of Cincinnati, Ohio, preliminary to his pronouncing the sentence of the law in the case of Arrison, convicted of murder, in December last.

The Judge said he hoped things would have appeared which would have explained away the facts in the case. This was the last act of his judicial life, and it was not out of place to say, that if anything tangible, giving grounds for a new trial, appeared while he had any power in the case, he should settle upon it with pleasure. But such a proceeding was a legal act, and could not spring from any sympathy or emotion, but must be based on facts. It was to him a satisfaction—indeed he regarded it the crowning act of his judicial course—that he had set aside two verdicts of murder in the first degree. He was ready to do so in this case, if anything should appear on which to predicate such action. This is a mournful duty, said the Judge. I have no discretion in the matter. I am the mere mouthpiece of the law formed by the people. In closing my judicial course, this act is like the pangs that precede death.

Here follows the sentence of the law, as to the day of execution.

The Judge in that case felt as a man, spoke as a man, and had the soul of a man, and it does credit to his head and his heart.

branch of his conduct—that of permitting the District Attorney to run riot, in making assertions in his opening speech to the jury, upon the former course of life of the accused, as unwarrantable as they were destitute of truth—which the Judge well knew, whether true or false, were foreign to the issue, and must be attended with dangerous results, and could by no possibility, under any fair legal interpretation of the rules of evidence, be admitted as such on the trial—as the subsequent conduct of the District Attorney clearly showed, were made for no other purpose, as no offer was made to prove them, than to create a prejudice in the minds of the jury, as fatal to the accused as though the assertions he had made had been proved. It was in this indirect way that the probable sacrifice of this man's life was accomplished.

It will be in vain for his apologist to say that it could have had no weight with the jury, who, in many cases, are extremely credulous, as well as ignorant and superstitious, and probably were so in this case. Ready, perhaps, to lend an open ear to such defamatory reports and dark suggestions, which, at all times, among the tribes of the censorious, circulate with much rapidity, would with them, at such a time, be likely to meet with ready acceptance. The humanity of our laws pronounces it criminal for one man to slander another, and at the same time affords redress to the injured. Yet how much more criminal is it in a judge to permit, under protest, in a case of life and death, the public prosecutor to make observations and charges to gratify his private spleen, perhaps, unfounded malice, and to enable the jury to supply by conjecture what was wanting in proof.

Nor does the judge content himself with venting his wrath upon the head of the unhappy man before him. He steps out of the record and assails the unimpeached veracity of the mother, and concludes, by inference, with charging the whole family with murder. He does not do it in frank and candid language, warranted by the facts of the case in the remotest degree; but in a circumlocution of words, in which he plainly indicates what he means, although he dare not say so. Courage and humanity are not more nearly allied than cowardice and cruelty. The reader will pardon us for giving the precise language of the Judge: "Your aged mother says that Maria complained, on the day preceding her death, of a sore lip. Whether this be so or not, is not for us to say. Charity requires, perhaps, that we should believe her—at least, that your mother believed what she testified." What greater imputation than this, the only evidence offered to explain this circumstance, without any conflicting testimony or impeachment of her veracity. Again he says: "If there had been such a wound on the lip, on the day preceding her death, *every member of the family* would have known it." That is, they would have been informed of it by her, as an important piece of family news; and, in the event of her not doing so, they would, as a matter of family duty, have instituted an investigation into the precise condition of her lips, by natural and artificial means—the microscope would have been resorted to, to detect what the naked eye had failed to discover—and the condition of her person would have been reported by a select committee, in parliamentary form, and duly entered on the family journal; and also whether they had found such a mark inside of the lip as the Judge describes, which, to his mind, as indicating guilt, was "*overwhelming*," and, we have no doubt, oppressive.

Now such a course may be in keeping with his notions of domestic propriety, for there is no such thing as accounting for tastes, either in men or in animals, and, if it is, we shall not dispute his right to exercise it over the family circle which he has the honor to rule. But we object to his turning

witness after the trial was over, and passing judgment upon his own evidence, for the purpose of sustaining a verdict based upon popular opinion. The novelty of such a course is, however, no greater than his reversal of the well-established rule of law, that every man is presumed to be innocent until he is found guilty.

But the Judge is getting impatient, uneasy, restless, and finally gives vent to the poetry of his imagination—expressing his terrible misgivings of deeds of death and darkness, in a strain that a Shensstone or a Cowper might have envied. “I will not attempt to *paint the scene* in that room on that night. I hope that no mortal eye saw it, or knew aught of it, *except yourself and the being* whom you violently sent into another world.” Now what other meaning did he intend to convey by this language than that the whole family were participants in the murder? He knew, and every one else knew that heard the trial, that there were no other persons but the members of the family about that house on that night, and yet, with a long drawn sigh, *hopes* that no mortal eye saw it, or knew aught of it, but the accused, when there was not even a shadow of a shadow of evidence that the other members of the family knew anything about it, if the accused did.

Another remarkable feature in his conduct was his utter disregard of those ordinary rules of life which pay respect to age, homage to virtue, and give due importance to the accumulated knowledge of experience. Ignorance, self-sufficiency, and the self-confident assertions of youth, appear gracious in his sight, and meet with favor at his hands. But talents, integrity, and a long life devoted to useful and scientific pursuits, are by no means congenial to his taste, or compatible with his understanding of men and things. He lays much stress upon the efficacy of piety and prayer in regulating conduct through life, but in the same breath intimates that he never had the one, nor ever done the other; and, if we are to judge his past life by his conduct in this particular case, we should be forced to the conclusion that the only rule of life that had ever governed him was that of following the multitude to do evil; for, instead of commiserating the unhappy situation of a being who had fallen a victim to ignorance and prejudice, he appears to have been running a gauntlet with public sentiment, to see how far he could aggravate his condition, under the specious pretext of religion and piety. In his presence, too, medico-legal science is permitted to be established on a false basis, that he may behold the mischief it will do when it is far beyond his control; and when he retires from his labors it is only to boast of his achievements in telling how he sent a human being into another world, in the name of ignorance and public prejudice.

If he had paid that attention, and given the importance which was due to the testimony of Doctors Emmons, Staats and Reed, a great calamity would probably have been avoided, a judicial murder prevented, and the criminal jurisprudence of our courts preserved from sin and shame; nor, in all probability, would his charlatan idol, that self-confident chemical pretender and eat killer, the starting point of all the mischief, be now a fugitive from his native State, impoverished in credit, bankrupt in name, wandering among the wilds of Virginia, leading a dissolute life; who sprung up in the scientific world, like a mushroom in the night, that perishes at the first gaze of the sun on the dunghill of its own paternity. Worthy associate, too, and fit instrument of an unscrupulous *ministerial* officer, who fancied that the emoluments of his office were increasing as he saw his popularity *painted* with the blood of his victim; and while the latter sinks into insignificance and contempt in the estimation of honorable men, the former runs away, to

escape the justice due his follies and his vices. With such hands the Court and Jury play off the game of life and death, and mark the score on the side of "public sentiment."

We cannot dismiss this subject without alluding to the course pursued in this case by a portion of the Albany newspapers. We think we are justified in saying never has there been a case in which so much ill-feeling and venomous rancor was manifested by the press as in this. If he had banished religion, broken up the foundations of civil society, and drenched the land in fraternal blood, they could not possibly have pursued him with a keener scent, or attacked him with more ferocity. From the first moment of his incarceration to that of his painful exit, which, under all the circumstances, must have been a welcome boon, they were active and busy; everything that was calculated to wound and irritate his feelings, and those of his friends, by means of falsehood and misrepresentation, found ready admittance into their columns; and, not content with abusing him while living, they slander him when dead—ascribing to him motives and actions as destitute of truth as they were strangers to him; and no sooner had the object of their continued assault ceased to live than disappointment seems to follow, and they begin to mistrust that justice had nothing to do with it, for the last words of the dying man lend neither confirmation nor consolation to their idle conjecture and criminal suggestions. It is then that the thought first strikes them. What have we been doing? and then, too, it becomes important for their own credit, and that of the administrators of the law, that nothing more should be said about it, and that all further inquiries into the causes of the sad catastrophe should be stifled, while all remembrance of the authors should be buried in the silence of a new made grave. Judges, jurors and witnesses seek their protection and find shelter in the charity of their silence, from the probable consequences of the sober second thought of the people which may, in its turn, overwhelm them with reproach, and leave them hateful objects in the sight of a charitable and thinking world.

To what to ascribe this unexampled course on their part we are at a loss to conjecture, unless it was that of hire and pay. So many pieces of silver for so many ounces of blood. Nor did they simply confine their labors of misrepresentation and abuse to the accused—but they assailed, in a ruthless manner, the character and scientific acquirements of the medical and chemical witnesses of the defence, because they had the honesty and moral courage to appear as witnesses *on the trial*, and testify the truth, that ever fatal enemy of ignorance; and it is by such a course that we are made to feel and know what constitutes the so much boasted "*liberty of the press*."

That such a course had a baneful and pernicious influence upon the action of our Courts,* in the final determination of the legal questions growing out of the trial, there can be no doubt, considering how strong a tendency and inclination there is at present in many of our judges,† under the present elective judicial system, that is already stricken with disease, and sinking under the effects of popular eupidity, to time their steps and adjust their opinions in accordance with popular sentiment, and be carried irresistibly

*On the re-sentence of H. the Judge remarked that "not only the Court, but the community agree in the justice of your verdict." We hope the Judge will pardon us for saying that the "community" tried him, and the Court was merely invited in to look on and see the sport.

† The decision of the legal questions in this case by the Court of Appeals, is about as great a phenomenon in the legal science as the scientific opinions of Drs Salisbury and Swinburne are in the medical. Both meet with about the same approval from their respective professions, and both will remain enduring monuments of the wayward and perverted condition of the criminal jurisprudence of our country and the love of popular opinion.

along with its wild and boisterous current, where the innocent perish, and the executioner writes murder on the tablets of the law. In conclusion, let us admonish those thoughtless beings who, outside the halls of justice, were actively instrumental in fanning public excitement and prejudice, until it reached the sacrifice of human life, to see to it, that in the day of final reckoning they are not only free from the blood of "all men," but of this man.

We turn from the contemplation of this subject with feelings of sorrow, not that any of ours have been crushed under the wheels of mutilated justice, set in motion by ignorance and false science, but we feel now, as we have always felt, that a great personal wrong has been committed under the authority of law, for which there can be no atonement, as the dead cannot be brought to life, nor the blasted feelings of the living restored.

It would be well, too, for judges and jurors, who are very often hasty and inconsiderate in letting their feelings and prejudices get the better of their judgment, to remember that life, human life, is neither a toy nor a rattle, but the gift of God; when once extinguished, no matter how, it is gone forever, and the dead never rise again. * *

New-York, May 28, 1855.

N. B.—Just as we are going to press our attention has been called by our Albany correspondent to the case of young Cook, who was convicted with Bickford of the murder of Secor, near Malone, Franklin county, N. Y., during the year 1853. They were found guilty upon circumstantial evidence. Subsequently, and near the day of execution, Bickford made a full confession of guilt, and under what circumstances the murder was committed, and if his dying statements are entitled to any credit at all, one was just as guilty as the other, for they both planned, and both helped commit the murder; although Bickford shot the man, yet Cook was present, with the understanding that he was, by means of a hatchet, to prevent Secor's companion from getting away while Bickford could reload his gun and shoot him. Governor Seymour, for reasons best known to himself, and probably good ones, as we do not find fault with his course, commuted the death sentence of Cook to imprisonment in the State prison. The verdict of the jury in this case was not "final nor conclusive with him," although there was no dispute as to his guilt. One of the reasons for his interposition, we are told, was Cook's youth, he being only seventeen years old, and also from the ex-parte statements made by Cook and his friends, that he was led into it by Bickford. In this case such statements appear to have had a controlling influence with the Governor, but in the case of Hendrickson they had none, although made by the first men of the age as to scientific abilities, and the fact of guilt or innocence being a mere question of science, with but very little if any moral evidence, the latter having no existence in the absence of the former. In this case, however, it is probably safe to suppose that there was a return of sufficient moral courage in the Governor to overcome the prejudices of that peculiar class of inhabitants who have long been known to infest the backwoods of Franklin county, with ideas of justice and clemency depending entirely upon their wants and the means to satisfy them..

The Albany Argus of November 8, A. D. 1853, has the following article in relation to ex-District Attorney Colvin, who was then in re-nomination for District Attorney:

"AN INFAMOUS APPEAL.

"Thousands of copies of the following atrocious appeal have been printed in handbill form, and circulated in this county by the friends of the candidate for District Attorney, in whose behalf it is made :

"*To the Electors of Albany county.*

"Shall Andrew J. Colvin be defeated for doing his duty on the trial of John Hendrickson, Jr., for murder ? The friends of Hendrickson, irrespective of party, are doing everything in their power to defeat him. Why is it, unless they expect by the defeat of Mr. Colvin this criminal will escape the punishment of the law ? Will not the people sustain an honest, fearless and capable public officer, and thereby rebuke those who wink at murder ?"

It is probably right that we should say here, in connection with this circumstance, that at the time of the trial the District Attorney and the Attorney General were stockholders in a paint company, started a short time previous by the *genius* of Dr. Salisbury in the city of New-York, and this probably accounts for the great zeal they displayed in magnifying the doctor's skill as a chemist. It also accounts for their low personal abuse of Professor Reed and Drs. Staats and Emmons. We regret to say, however, that the doctor proved as great a cheat to them as he had been to science. Having gorged himself with the funds of the concern, he became frightened at the law and bid them goodbye, leaving the poor General to deplore the loss of his society and that of his *fair cousin*—a *Ninon D'Enclos* of the times.

We conclude this brief notice of the General's business and domestic relations with the doctor and his fashionable kinswoman by giving that chaste and beautiful sentiment offered by him in his closing remarks on the trial : "*I should have no hesitation in saying and believing, that she is just the one to please the taste of every libidinous scoundrel in the land who might chance to sit beside her.*"

REVIEW

Of the Trial of John Hendrickson, Jr., for the Murder of his Wife, by Poisoning, at Bethlehem, Albany County, N. Y., March 6, 1853, by Dr. CHAS. A. LEE.

Reported by Messrs. Barnes & Hevenor. Albany, 1853.

This report contains the history of one of the most interesting and important trials in the records of medical jurisprudence in our country. It is the first, and we believe the only instance in which the question of poisoning by *aconite* has been brought before our courts of law; and the facts elicited on the trial, though of a negative rather than a positive kind, are of great importance in legal medicine, and deserving of permanent record.

The present report has been published under the sanction of the counsel who were engaged both in the prosecution and defence of the deceased, and may therefore be regarded as a correct and authentic document. It contains, in addition to the testimony elicited upon the trial, the arguments of the counsel, the charge of the judge to the jury, and the sentence of the court, after the verdict of guilty was rendered by the jury.

A brief history of the case will be necessary, in order to appreciate the nature of the testimony, on which we design to make a few comments.

The accused, John Hendrickson, Jr., a young man twenty years of age, born of respectable parents, married, at the age of eighteen, Maria Van Dusen, a young lady of seventeen, also of highly respectable connections, well educated, amiable and intelligent. There is no evidence that they lived together unhappily; and although the District Attorney, in his opening speech, spoke of the prisoner having communicated syphilis to his wife, there is no satisfactory proof that such had been the case; but, on the contrary, it is quite evident that she had labored under a severe form of leucorrhœa. On the night of the 7th of March, 1853, after attending church in the evening, she retired to bed with her husband at her father-in-law's, between ten and eleven o'clock, complaining of a severe pain in her head, hips and loins, and at two o'clock was found dead by her husband, "occupying nearly the centre of the bed, lying at full length on her back, with her hands either crossed or lying down by her side, the bedclothes covering her person. A coroner's inquest was held the same evening, and a *post-mortem* examination ordered, which was made, thirty-six hours after death, by Dr. J. Swinburne, Dr. Ingraham, and the coroner, Mr. Smith, being present. Four days after, the body was disinterred, and further *post-mortem* dissection made, the first, for some reason not specified, having been incomplete. The principal appearances noticed are the following: Great pallor of the surface; calm expression, and no distortion of features; sugillation of the posterior parts of the body; great rigidity and *elasticity* of the muscles; lungs and heart healthy; heart empty of blood, except a small clot in the right auricle; the vena cava partly full of dark fluid blood; stomach and small intestines empty; liver healthy; gall-bladder half full of bile; mucous coat of stomach very red,

lined with a thick reddish mucus, corrugated; the stomach itself contracted to two inches in diameter, and its coats hypertrophied; the mucous coat of duodenum also corrugated, and more congested than that of the stomach; uterus enlarged to twice its natural size, hardened, and its cervix slightly ulcerated, with adhesions to the rectum and small intestines; ovaries considerably enlarged; spleen and pancreas healthy; urinary bladder contracted; brain healthy, no congestion; tongue white, and a little swollen; a small ecchymosed mark on inside of lower lip, showing a cut about a quarter of an inch in length (throat, œsophagus, spinal cord, and lower portion of intestinal canal not examined). At the next examination, five days after, the kidneys were found healthy, feces in the cæcum; portions of lung, liver and pancreas, with four ounces of blood from cavity of chest, were removed, placed in jars, and carefully covered.

To the question, on the subsequent trial, "What was the cause of death?" Dr. S. replied:

"Acrid poison. I base it on this: I find entire emptiness of the stomach and small intestines, so far as fecal matter is concerned; also contraction and corrugation of the same to a great extent. I find in place of that a reddish *viscid* mucus adhering to the coat of the stomach and intestines; the emptied condition of the gall-bladder; the appearance of the tongue. I inferred from these that vomiting had taken place, and that, too, induced by some acrid matter, which would not only expel the contents of the stomach, but of the small intestines, the presence of which acrid matter would induce the vomiting."

To the question, "What would induce your belief that she vomited?" the witness replied:

"I believe the act of vomiting is accompanied by more or less contraction of the stomach; where that act is induced by the presence of acrid matter, the contraction will be proportioned to the material used, be it more or less irritating." "The corrugation would be owing, in part, to the contraction of the muscles, and part to the irritating matter applied to the mucous surface." "The rigidity of the body presented the appearance of a person destroyed by anything which would produce a sudden spasm or contraction of the muscles." "The appearance of the stomach and intestines proved to me conclusively that she had vomited, and to such a degree as could not be produced by ordinary causes; and I think the effort at vomiting continued until exhaustion took place. My reasons are these. The blood, in the first place, was thrown from the centre to the surface; also, the extreme pallor of the countenance, which always attends exhaustion from vomiting."

To the question, "Will you state, in your judgment, from what poison she came to her death?" Dr. Swinburne replied:

"I suppose the deceased died from aconite, from the fact of the appearance on the post-mortem examination being so identical with those of the dogs and cats," (experimented on by Dr. Salisbury with tincture of aconite.)

The counsel then asked: "What is the strength of your opinion that she died of poison?" Dr. S. replied:

"I have no doubt of it; I have no doubt that she vomited; one of my reasons for thinking she died of poison was her having vomited, and also the absence of congestion. Had Mrs. H. died of natural causes, more or less natural contents would have been found in the small intestines, and they would have presented a healthy appearance, relaxed instead of contracted; also, the circulating system would have presented a different appearance. In all forms of death by asphyxia, syncope, apoplexy, epilepsy, and all the other forms of convulsive diseases, you have fullness or engorgement of the heart and all the important viscera." Again: "From my reading, knowledge and experience, I am prepared to express an opinion as to what caused the morbid condition of the stomach and bowels—it was aconite, or the principle of aconite. Had the poisonous matter passed off with any of the fecal matter, I think the rectum would have presented the same appearance as the intestines, only in a less degree; can assign no possible way, except by vomiting, how the fecal matter could have been removed."

"What external appearances would you look for, where death has been caused by aconite in three or four hours?"

"Should expect to find rigidity of all the voluntary muscles; also, extreme pallor from vomiting."

The testimony of Drs. Ingraham and Coroner Smith, though lacking the positiveness of that of Dr. S., just given, is of similar tenor, so far as regards the *post-mortem* appearances. Both express the opinion that death was caused "by some acrid substance introduced into the stomach." Both also were willing to swear, from the appearance of the stomach, that severe vomiting had taken place previous to death. Dr. Smith, however, was inclined to think that death was occasioned by the influence of some poison on the nervous system.

We hardly dare trust ourselves to comment on the above testimony as it deserves; for, if there is any principle established in legal medicine—one in which all pathologists agree—it is, that no positive proof of poisoning can be derived from the *post-mortem* appearances, either in the internal or external parts of the body.

"Any evidence," says Taylor, "derivable from the appearances in the body of a person poisoned, will be imperfect unless we are able to distinguish them from those analogous changes, often met with as the results of ordinary disease. These are confined to the mucous membrane of the stomach and bowels. They are redness, ulceration, softening and perforation; all of these conditions may depend upon disease, as well as upon the action of irritant poisons."*

So also Guy: "The symptoms and *post-mortem* appearances produced by poisons are not peculiar to them, but may be produced by natural causes, and form a part of common diseases."†

And yet Dr. S., on his cross-examination, states that "he never read in any work on medical jurisprudence that a physician should not give an opinion of the death of a person from poison from the mere appearances on *post-mortem* examinations;" and thought that "a prudent person would express such opinion; and that a person could give evidence of death by *aconite* merely from the inspection of the person after death!"—also, "inflammation never takes place except from the presence of some irritant!"

With regard to the degree of "congestion" of the mucous membrane of the stomach, &c., the sum of the medical testimony is as follows: Dr. Smith remarks, that he "did not examine the bowels or duodenum particularly, only they appeared smaller than usual." Dr. Ingraham speaks of a "reddened appearance of the folds of the stomach." If the redness of the mucous surface had presented anything very remarkable, it would probably have been brought out more prominently. Dr. Swinburne's testimony is, that "the vessels were so filled that the mucous surface looked very red, and the mucous coat was lined with a thick reddish mucus." Dr. S. regards the redness as simply "congestion, and not inflammation." There were about two ounces of reddish mucus in the stomach, which was hypertrophied, but its villous coat less congested than that of the duodenum; paler, but more corrugated than the latter. The duodenum was empty, and smaller than natural. The remainder of the intestinal canal was not examined till four days afterwards, when the body was exhumed.

Admitting, then, that there was an unusual degree of redness or congestion of the mucous membrane of the stomach, it is now well established that it is not uncommon to find such appearances, not dependent on the action of poison or any assignable cause. Dr. Taylor, in his work on Poisons (p. 101, Am. ed.), remarks that—

"A person may die, without suffering from any symptoms of disordered stomach; but on an inspection of the body, a general redness of the mucous membrane of this organ will be found, not distinguishable from the redness which is so commonly seen in arsenical poisoning. Several cases of this kind have occurred at Guy's Hospital; and drawings have been made of the appearance of the stomach, and are now preserved in the museum collection. A record

* Taylor on Poisons, Am. ed. p. 100.

† Med. Jur., Am. ed. p. 544.

has been kept of four of these; and it is remarkable that, although in not one of them, before death, were any symptoms observed indicative of irritation or disease of the stomach, yet in all the stomach was found more or less reddened, and in two exclusively so. Such cases are only likely to lead into error those who trust to this *post-mortem* appearance alone as evidence of poisoning; but no medical jurist, aware of his duty, could ever be so misled.²

He then gives a case of a young woman far advanced in pregnancy, who died suddenly in a fit of syncope, and where, after death, "the mucous membrane of the stomach was reddened, and thrown into rugæ." There is also an interesting case recorded in the *Annals of Hygiene*, 1835, vol. 1, p. 227, where it is probable that this pseudo-morbid appearance of the mucous membrane was mistaken for the effects of irritant poison. Dr. Yellowly has also shown very clearly that the mucous membrane of the stomach often presents a high degree of vascularity and redness in cases of *sudden death* (*Med. Chir. Trans.* 1835). He met with this appearance, as we have also in the stomachs of executed criminals, &c., and after presenting a great array of facts, adduces from them the following conclusions: 1. That vascular fullness of the lining membrane of the stomach, whether florid or dark colored, is not a special mark of disease, because it is not inconsistent with a previous state of perfect health. 2. That those pathologists were deceived, who supposed, from the existence of this redness in the stomach, that gastritis sometimes existed without symptoms. 3. That erroneous conclusions as to the cause of death are frequently owing to the same mistaken observations, the effects of putrefaction and spontaneous changes induced by the loss of vitality being sometimes attributed to the action of poisons. 4. That the vascularity in question is entirely venous, the florid state of the vessels arising from the arterial character of the blood remaining in the veins for some time after its transmission from the arterial capillaries at the close of life; the appearance is, however, sometimes due to transudation only. 5. That the fact of inflammation having existed previously to death cannot be inferred merely from the aspect of vessels in a dead part; there must at least have been symptoms during life. These positions are now also maintained by Andral and the best French pathologists, as well as those of Germany and this country; so that redness of the mucous membrane of the stomach and intestinal canal can no longer be regarded as proving the past existence of inflammation, unless there have been symptoms during life, or other marked effects of the inflammatory process in the alimentary canal, or the discovery of the poison itself. We may also, in this connection, refer to the cases recorded by the late Professor W. E. Horner, in the first volume of this Journal, for evidence of the same fact. Professor Horner was one of the first to prove that there may be great congestion of the mucous membrane of the stomach, abundant mucus, and great corrugation and contraction, without previous inflammation, and where death has resulted from other diseases. In one case, where death was sudden, and no suspicion of poisoning, he found the gastric coats thick and dense, the mucous coat thrown into numerous folds, or well-marked, elevated rugæ, and almost universally of a deep arterial red. The red corpuscles were extravasated in numerous spots and blotches. Dr. Beck also remarks:

"MM. Nigot and Trousseau, and M. Billard, have pursued the investigation of this subject to a great extent. The former have proved by experiment that various kinds of pseudo-morbid redness may be formed, which cannot be distinguished from the parallel varieties caused by inflammation; that these appearances are produced after death, and not until three, five, or eight hours after it; that they are to be found in the most depending parts of the stomach, and turns of the intestines; and that after they have been formed they may be made to shift their place, and appear where the membrane was previously healthy, by simply altering the position of the gut."³

* *Med. Jur.* vol. ii. p. 310.

It is very evident, then, that redness, quite equal in degree to that observed in the case of Mrs. Hendrickson, is no uncommon appearance in *post-mortem* examinations, and the redness would seem to be intense in proportion as the death has been sudden, and the circulation active. The redness in the present instance was no greater than is usually met with in cases where death is as sudden. The "reddish mucus" in the stomach may, perhaps, be satisfactorily accounted for from the presence of the coloring matter of tomatoes, which the deceased ate freely shortly before her death. The microscope might have settled this question definitely.

The other phenomena mentioned, on which considerable stress appears to have been laid, viz. : pallor of the surface, and rigidity, and elasticity of the muscles, &c., are even less significant or characteristic of poisoning than the slight congestion already noticed. Neither can be considered as indicative of modes of death ; their absence, indeed, might be worthy of note in a suspected case, but not their presence. In all cases of death from irritant poisons, especially the narcotico-irritants, which we have had an opportunity of observing there have been crimson or livid-colored patches on various parts of the body, and considerable tympanitis, though we cannot affirm that these phenomena are invariably present in such cases. There has also been considerable bloody frothy mucus in the mouth, fauces, and œsophagus, especially when vomiting has been severe. No such phenomena were noticed in the present instance ; only we are told that the tongue was "swollen, and very white," an appearance not particularly indicative of gastric irritation. It is also worthy of note, that the "pallor" is attributed to the "blood having been thrown from the centre to the circumference, by vomiting," which we should suppose would have the opposite effect.

"The rigidity of the body," says Dr. S., "presented the appearance of a person destroyed by anything which would produce a sudden spasm or contraction of the muscles."

Here it is assumed that the deceased died from spasm, and that the spasmodic state of the muscles continued after vitality was extinguished (thirty-six hours after death). No allusion is made to the *rigor mortis*, as a common cadaveric phenomenon ; but it is claimed throughout the direct testimony, that the stiffness of the body was owing to some poison which had caused severe spasm ; and because the witness had noticed the same rigidity in dogs, destroyed by aconite, he does not hesitate to express the opinion that the deceased came to her death from the same poison. Now, cadaveric rigidity takes place in all classes of animals alike ; coming on as soon as muscular irritability ceases, confined to the muscular system in many cases, giving extreme rigidity to the body, its degree and duration, *cæteris paribus*, being directly as the muscular development ; continuing longer the later it occurs, and *vice versa* ; influenced greatly by the nature of the disease or the cause of death ; appearing more speedily, and lasting a much shorter time, when death has occurred from some chronic wasting disease, as phthisis, fever, scurvy, &c., coming on slowly, and being strongly developed, and lasting often for several days, when the death has been occasioned by acute inflammation of the stomach, or by irritant poisons. We have known cadaveric rigidity continue four or five days after death from cholera. Any one conversant with these facts would hardly dare derive any positive conclusion as to the cause of death from the presence of muscular rigidity. We dismiss it, therefore, with the "pallor" and "congestion," as wholly insufficient to justify the conclusions deduced from it.

Considerable stress is also laid by the witnesses on the "corrugation and contraction of the stomach;" but these are so often met with in death from natural causes, that no significance can be properly attached to them. Professor Horner has shown that *rugæ* of the stomach are quite common in *post-mortem* examinations, and that they appear in cases where no stimulants or irritants have been applied, and in stomachs perfectly healthy, and that they are more frequently met with in cases of sudden death; and yet it is assumed, in case of Mrs. H., that these *rugæ* were owing to the *astringent* properties of aconite, which has heretofore been regarded as a *paralysant*, and not a stimulant.

We do not hesitate to say that aconite has no power to "shrivel vegetable membranes," as claimed upon the trial; though it will destroy vegetable life; the subsequent "shrivelling" is, doubtless, the result of the evaporation of water, or drying.

The diminished caliber of the stomach and intestinal canal, was, in all probability, the result of sudden death, leaving the organic contractility of the muscular fibre unimpaired.

Extensive experiments have been made with aconite upon the lower animals; but corrugation of the stomach has never been claimed as one of its *specific* effects. It was never observed by Orfila, or by Fleming. The presence of two ounces of viscid mucus in the stomach is regarded by Dr. F. as positive proof that an irritant had been swallowed, and yet Dr. Horner gives cases (*loc. cit.*) where the same amount of similar mucus was found in healthy stomachs. It is not unusual to meet with considerable quantities of mucus in the stomach after death from various diseases; nor was its color by any means remarkable under the circumstances; and yet the witness states, that he "had never seen viscid mucus in a stomach after death from natural causes," nor "clinging to the coat of the stomach." The deceased had eaten little or nothing during the day preceding her death (Dr. S. says ten or eleven hours), and speaks of the empty condition of the stomach and small intestines as a remarkable circumstance, and one which proved conclusively that severe vomiting had occurred previous to death. "I believe," says he, "that all the contents of the stomach and small intestines could be thrown up, and not a particle or trace be discovered in any part;" "the quantity in a healthy person would be from a pint to two quarts;" and "this might be thrown up in an hour." To another question he replied, "A healthy stomach might expel its contents in about three or four hours;" and "considerable portions of the fecal matter would remain in the small intestines twenty-four hours."

Criticism on such statements is a work of supererogation; according to Beaumont, the *longest* time required for digesting any substance, in the stomach of St. Martin, was five and a half hours, the average less than three. Food does not long remain in the duodenum, and the *jejunum* is so called because it is generally empty. It would have been strange, indeed, and contrary to the usual course of things, if anything had been found in the stomach and small intestines. Had the deceased eaten supper at six o'clock (and there is no evidence that she ate any dinner or supper, but very satisfactory proof that she did not, to any amount), it would not have been strange, death occurring eight hours after, to find the stomach and small intestines empty.

It was proved by at least two witnesses, that there were no evidences of vomiting in the room where the deceased slept, when found dead, there

being but one vessel in the chamber, and that half filled with urine alone. There were also several persons sleeping in the house; but no one heard any noise from vomiting, or any other cause. The inference, then, that the empty state of the stomach, &c. (two ounces of mucus excepted), indicates previous vomiting, is just as unfounded and unsustained by facts as the former. Dr. Salisbury testifies that

"The stomach was much contracted, and drawn into folds and ridges; not more than half as large as the stomach in its natural state; much congested; the mucous coat covered with a whitish substance resembling viscid mucus, and this was covered with the blood." "The duodenum was contracted longitudinally and transversely, highly congested, the inner coat covered with viscid mucus, mixed with a light quantity of a whitish matter, resembling chyme, and this was mingled with blood." "The jejunum was in a high state of congestion, contracted, its mucous coat covered with mucus, and a whitish substance resembling chyle, tinged with blood, the contraction less than the duodenum."

The appearance of the *ilium*, Dr. S. states, was similar to that of the other small intestines, while the cæcum, colon, and rectum, were half filled with fecal matter, those in the rectum being "dry and hard." Dr. S. inferred that there was a "*tendency to purging*, because the fecal matter in the cæcum was thin and watery;" also, that vomiting had occurred from "the contracted condition of the stomach, its emptiness, the emptiness of the small intestines, and the high state of congestion and effusion of blood in these organs." "Had Mrs. S. taken her usual meals on *Saturday*," says Dr. S. (death occurred between one and two o'clock on Monday morning), "I should have expected to have found food in the small intestines."

Comment on this evidence is altogether unnecessary. Why the mucus in the *ilium* should be more deeply tinged with blood than that of the stomach we are not informed. No one, on reading the evidence, can doubt that the stomach and small intestines were empty in obedience to the laws of their economy; the natural result of the performance of their healthy functions.

The gall-bladder was half full of bile, which, as we believe, is entirely inconsistent with the idea that severe vomiting had occurred. Dr. Swinburne says: "The gall-bladder does not become necessarily empty by vomiting; it has no peristaltic action."

Such violent vomiting, however as is claimed to have occurred in this case, must, by compression, have forced all the bile from its cyst.

In short, the *post-mortem* appearances do not justify the inference that Mrs. Hendrickson vomited during the last hours of her life. This belief has been expressed by all the physicians whose opinions have been sought for, including Professor A. Clark, of New-York, A. March, P. Van Olinda, M. F. Cogswell, T. Hun, J. H. Armsby, J. P. Boyd, B. P. Staats, and T. R. Beck, of Albany. The New-York Pathological Society, by a unanimous vote,

"*Resolved*—That the statements made by Dr. Swinburne, as printed in the *Report of the Trial of Hendrickson*, by Barnes and Hevener, Albany, 1853, concerning the *post-mortem* appearances, as described by him in the case of Mrs. Hendrickson, in no wise justifies the opinion that death was produced by vomiting, or was caused by the administration of aconite; such appearances, especially those relating to the condition of the stomach, being often found in *post-mortem* examinations where no vomiting had occurred, and where no aconite had been taken before death.

"*Resolved*—That the *post-mortem* examination, as detailed by Dr. Swinburne, is faulty, wanting in detail as regards the condition of several important organs, and omitting to examine altogether the trachea and larynx, affections of which are known to produce sudden death.

The spinal cord was only examined down to the second cervical vertebra, and it is well known that death sometimes suddenly occurs from the rupture of a bloodvessel within the spinal canal.

In this connection, it will be appropriate to consider briefly the properties of aconite. Belonging to the natural family *Ranunculaceæ*, the *Aconitum Napellus* has generally been supposed to participate in the acrid properties of that class of plants, and hence it has usually been described as an *acrid narcotic*. It is now, however, well ascertained, that the aconite has very feeble, if any, acrid properties, the effects, such as nausea and vomiting, &c., commonly produced by it, being occasioned by its violent action on the nervous system. Christison says its *acrid* powers are "doubtful or feeble." Pereira and Fleming do not admit that it possesses any. Taylor and Thomson also coincide in this opinion. Its peculiar effect upon the organs of taste, such as tingling, numbness, sense of heat, &c., Dr. Fleming shows to be a property belonging to its narcotic or sedative principle, and the measure of its activity as a poison. The aconite is not a stimulant, but a pure *paralysant*.*

The importance of a correct knowledge of the properties of plants is well illustrated in the case of Mrs. Hendrickson. Had it not accidentally come to light that some druggist at Albany had sold an ounce of *tincture of aconite*, to some unknown person previous to the death of Mrs. H., and had it not been erroneously assumed that aconite was a powerful *acrid*, no one would have ever suspected it to have been the cause of death, nor would any such interpretation have been given to the *post-mortem* appearances.

It is claimed in the present case, that nearly or quite an ounce of the saturated tincture of aconite (of which ten drops have proved fatal), was administered to Mrs. H., in consequence of which she vomited an hour or more incessantly, and then died from exhaustion, with composed and placid features, &c., with the *post-mortem* appearances already noticed.

The experiments of Dr. Fleming upon the lower animals with aconite, prove conclusively that neither the plant, nor any of its preparations, produces vascularity in any membrane to which it is applied, even the lips and tongue when burning and tingling from its topical action; that this is purely a nervous phenomenon, and that inflammatory redness of the alimentary canal is never observed in animals poisoned by it.† The prominent symptoms, according to this careful observer, are weakness and staggering, gradually increasing paralysis of the voluntary muscles, slowly increasing insensibility of the surface, more or less blindness, great languor of the pulse, and convulsive twitches before death, with great contraction of the pupil and impairment of the muscular irritability, and, of course, loss of muscular power. When it proves fatal to the human subject, it generally does so by inducing extreme depression of the circulation, or paralyzing the muscles of respira-

* M. M. Geiger and Heiser, two distinguished French chemists, have investigated the properties of aconite with much success. They speak of it as follows: "Cette substance alcaline, ne cristallise pas; elle est inodore: elle a une saveur amère *sans acreté*; elle n'est pas volatile; peu soluble dans l'eau très soluble dans l'éther et surtout dans l'alcool," &c. (*Traité Therap. &c.*, par A. Trousseau and H. Pidoux, tom. 2, p. 118.)

M. M. Merat and De Lens, in their *Dictionnaire Universel de Matière Médicale*, vol. 1, p. 53, have described the properties of aconite very accurately, and in few words as follows: "Pris à la dose d'une drachme ou deux, il [the root], produit un véritable empoisonnement. D'abord les sujets éprouvent une ardeur brûlante, une soif ardente, des vertiges se déclarent; de la cardialgie, des vomissements ont lieu; ainsi que des coliques atroces, avec déjections alvines; de la somnolence le manifeste, accompagnée des convulsions et d'une agitation extraordinaire; des sueurs froides et la mort viennent terminer cette scène de douleur au bout de deux à trois heures."

Sir B. Brodie as well as M. Orfila made many experiments with aconite on animals, and the latter describes the stomach and intestines as *free from inflammation*.—*Med. Leg.* 2, p. 54.

† Professor A. T. Thomson remarks (*London Dispensatory*): "Although aconite operates topically, yet dissections of fatal cases have not displayed any particular marks of inflammatory action." (P. 181.)

tion. Dr. Fleming states "that it may also kill, by an overwhelming depression of the nervous system, proving fatal in a few seconds, without arresting the action of the heart; and secondly, by asphyxia, or arrest of respiration, the result of paralysis, gradually pervading the whole muscular system, respiratory as well as voluntary. Such are the results when very large doses are taken." The least variable symptoms in the human subject are, first, numbness, burning and tingling in the mouth, throat and stomach, then sickness, vomiting and pain in the epigastrium; next, general numbness, prickling and impaired sensibility of the skin, impaired or annihilated vision, deafness and vertigo; also frothing at the mouth, constriction at the throat, false sensations of weights, or enlargements in various parts of the body; great muscular feebleness and tremor, loss of voice, and laborious breathing; distressing sense of sinking, and impending death; a small, feeble, irregular, gradually vanishing pulse; cold, clammy sweat, and pale, bloodless features, together with perfect possession of the mental faculties, and the tendency to stupor or drowsiness. Finally, sudden death at last, as from hemorrhage, and generally in a period varying from an hour and a half to eight hours. In a case observed by Fleming, where the *tincture of the root* had been taken, the symptoms began in a few minutes. But in a case recorded by Pereira (*Mat. Med.* vol. ii. p. 1806), where the root was eaten in mistake for horseradish, no effects were observed for nearly an hour. Generally, however, the tincture and the alkaloid act with very great rapidity, the effects following on absorption, which may happen in from two to eight minutes, according to the condition of the stomach and the general system at the time.

It must be recollected, however, that the effects of aconite on the system are not uniformly the same. Some anomalies have, from time to time, been observed, such as convulsions and slight spasmodic twitches of the muscles, owing, doubtless, to venous congestion, the result of partial asphyxia; stupor and insensibility, due to the same cause, though they may have been confounded with extreme nervous depression and faintness, delirium, congestion of the mucous membrane of the stomach, &c. This, however, we have seen, is generally found in cases of sudden death. Nausea, vomiting, and pain in the epigastrium, are not regarded by Dr. Fleming as evidence of gastric irritation, as they may all be owing to the same local nervous impression which is produced on the organs of taste. He denies that *purging* is ever produced by aconite. Pallas, however, mentions, that three out of five persons who took *tincture of aconite* died in two hours, with burning in the throat, vomiting, colic, swelling of the belly, and purging. *These Inaugurale*, Paris, 1822.) Degland relates an instance where four persons took the tincture by mistake, and three of them were seized with burning pain from the throat to the stomach, sense of swelling of the tongue and face, colic, tenderness of bowels, vomiting, and purging; one died in two hours, and one in two and a half hours.

The authenticity of these cases, of Pallas and Degland, is, however, doubted both by Fleming and Pereira, who suppose that it was the tincture of some other root that was taken. In the cases recorded by Pereira, no purging occurred. Diarrhœa, if it does occur in aconite poisoning, is an extremely rare phenomenon.

Morbid Appearances.—Ballardini, who met with twelve fatal cases of poisoning with aconite,* represents the pia mater and arachnoid as much in-

* *Annali Universali di Medicina*, 1840, liii. 635.

jected; much serosity under the arachnoid and at the base of the brain; lungs considerably engorged with blood; heart and great vessels contained a little black fluid blood; villous coat of stomach spotted with red points; the small intestines as presenting red patches, and much mucus. In a case mentioned by Pereira, there was venous congestion of the head and chest, and great engorgement of the lungs and right side of the heart.* It cannot be denied that great redness of the mucous membrane of the stomach and small intestines, has been occasionally observed in cases of poisoning by aconite—as in the cases which occurred some years since at Lille, in France, and recorded in the *Edinburgh Medical and Surgical Journal*, vol. xxviii. p. 452. In some cases the mucous membrane of the stomach has been found of a light reddish brown color; and in others still, quite natural in appearance. There is no instance on record, we believe, where aconite has produced inflammation of any of the mucous membranes or organs of the body, but merely congestion; and this may be of the brain, lungs, liver, spleen, and mucous surfaces; no softening or effusion of lymph, or other mark of inflammation, has ever been found in connection with the patches of redness produced by aconite. Its immediate action in lowering the action of the heart, and arresting or retarding the respiratory movements, proves conclusively its purely sedative and paralyzing power. The appearances on dissection in Mrs. H.'s case do not correspond with those generally observed in cases of poisoning by aconite.

Chemical Testimony.—Chemical evidence is very justly regarded as the most decisive of all the kinds of proof in medico-legal inquiries. In the present instance, however, the anatomical evidence appears to have been regarded as very important.† The case, however, undoubtedly turned chiefly upon the chemical evidence. This was deemed conclusive. It may have cost John Hendrickson, jr., his life. Alas! as Raspail has observed, “it is never too late to unlearn an error, but an incorrect testimony once given in a court of justice can never be recalled. The sword of the law does not retrace its steps, as the opinion of an experimental chemist may.”‡

Dr. James H. Salisbury, chemist, having charge of the New-York State Laboratory, testified as follows:—

“With the portions of the subject submitted to me, I proceeded to make my tests for poisons. In this case my chemicals were all pure, my implements and vessels clean. First, I took a small portion of the stomach, its mucous surface, and a small portion of the duodenum; tested first for prussic acid—did not detect its presence; then tested for some of the mineral poisons, first for arsenic, then for corrosive sublimate, the antimonial compounds, the mineral acids—such as muriatic, nitric and sulphuric acids; also tested for oxalic acid; did not detect the presence of any of these. Next tested for morphine, strychnine, stramonine, also for other poisons, none of which I discovered. I then tested for aconite; the tests indicated aconitine, the poisonous principle of aconite. Took a small portion of the stomach and duodenum, digested it in alcohol over a water-bath, then filtered; evaporated the filtrate partially; the oily matter rose to the surface; this I separated by decantation, and then absorbed it from the surface by bibulous paper; then mixed the solution with *purified animal charcoal*, agitating it for some little time after mixing; filtered; and to this solution I applied my tests, as follows: I boiled a small portion of this solution with sulphuric acid; the solution was turned a deep port-wine red color. I then boiled a small portion of the solution with hydrochloric acid; this turned the solution to light port-wine red color. Then boiled a small quantity of the solution with nitric acid; the solution remained clear, with no change of color. From these tests I inferred the presence of aconitine. I repeated these tests several times,

* Christison on Poisons, Am. ed. p. 668, 669, &c.

† Judge Marvin, in his charge to the jury, says: “We learn from the evidence of Dr. Swinburne, and other medical men, that *post mortem* examinations will generally disclose the cause of death!” After minutely describing the morbid appearances, because, he says, “they form the facts or basis on which the professional witnesses found their opinion,” ye! he states that the coroner, Dr. Smith, could not find (though present at the first *post mortem*) the marks of inflammation or congestion in the stomach described by Dr. Swinburne!

‡ Organic Chemistry, p. 525.

with the same results. The stomach and duodenum were what I made my preliminary tests with; these tests are what are laid down for *aconitine* by the best authors. I had made these tests previously, and had also made *aconitine* my special study. My tests produced the same results. I have applied them since with similar results. For two years previous to this I had paid much attention to vegetable alkaloids, and among them especially *aconitine*, the poisonous principle of *aconite*. On the 15th of March I commenced the process of *analysis*, for the purpose of separating *aconitine*, if present in sufficient quantity. I divided a portion of the remaining portions of the stomach and duodenum, and their contents, the small intestines, a portion of the liver, and a portion of the blood, into two equal parts. One of these portions I digested in alcohol for several hours over a water-bath; then filtered; partially evaporated; separated the oily matter by decantation and absorption; evaporated nearly to dryness; mixed with the alcoholic extracts pure caustic potassa; distilled; heated the distilled matter with dilute sulphuric acid, sufficient to neutralise it; evaporated this over a water-bath; treated it with pure alcohol, between 74 and 80 per cent; filtered it; evaporated it nearly to dryness; treated the residue with pure caustic potassa, and again distilled, evaporated this slightly, and set it aside for future use. The other and second portion was digested in alcohol over a water-bath, for several hours; filtered; evaporated partially; separated oily matter by decantation and absorption; evaporated nearly to dryness; treated the alcoholic extract with dilute sulphuric acid and distilled water; filtered; then evaporated it partially; treated the solution with ammonia to a slight excess; a precipitate was formed; this was carefully washed by a small quantity of water; this precipitate was redissolved in dilute sulphuric acid and distilled water, added to this solution a small quantity of purified animal charcoal, agitating for some minutes, and then filtered it; evaporated the filtrate slightly, at a low temperature; added ammonia in slight excess; a precipitate was formed; this I carefully washed with a small quantity of distilled water; this result I mixed with the result obtained by the other process; in all there was about two-thirds of a teaspoonful. I was from the 15th to the 19th of March in getting through this process; it was going on day and night. In testing for this matter I placed it on my tongue; it had a bitter taste; a sparkling (?) sensation at first, which, in three or five minutes, turned into a numbness, producing a stiffness of the surface; the sensation produced was very much like that in the foot when it is said to be asleep. This matter, which I separated by the process just mentioned, I gave to a cat; gave it in small pieces of beefsteak; in about half an hour she exhibited a choking sensation and swallowing; this was followed by a slight contraction of the muscles, twitchings, which moved the limbs slightly, and this by a tendency to vomit. These spasms lasted from one to two minutes; considerable stupor succeeded; she lay down upon her side and breathed heavily, as though she was under the influence of some narcotic; this lasted for some time; it gradually passed off, and in about three hours she was quite natural again. On the 29th of March I gave this cat six drops *tinct. of aconite*. In administering it I opened her mouth, held her head back, and poured the tincture immediately down her throat; after five or ten minutes she commenced swallowing; in fifteen minutes she commenced vomiting slightly; this vomiting continued for twenty-five minutes, when she became very weak, and fell upon her side; the vomiting here ceased; she breathed heavy and slow, and in one hour and a half after the poison was taken she died. The *post-mortem* was made seven hours and a half after she died. The stomach and intestines were found very much contracted; about one-third the usual size. The intestines were very much contracted and rigid; the walls thick. We then opened the stomach, and found a very high state of congestion; it was very much contracted on itself, and thrown into folds. The mucous coat was covered with a small quantity of mucus, tinged with blood. The duodenum was contracted; very much congested. The mucous coat was covered with mucus, tinged with blood. There was one or two places in the lower portion of the duodenum where the mucus was tinged with bile; the whole was tinged with blood. The jejunum was considerably congested and contracted. The mucous coat was covered with mucus, tinged with blood. The ileum had much the same appearance as the jejunum, except that the mucus which covered its surface was of a slightly different color—pure white; there was a little bile here. I found no fecal matter thus far; in the cæcum I found fecal matter; it was partly digested food, mixed with white frothy matter; the upper portion of the colon also contained fecal matter, which was thin and watery; not as thin and watery as that in the cæcum. The fecal matter grew harder as it approached the rectum; there was no purging. The urinary bladder was very much contracted; there was no water in it; the gall bladder was about half full.”

Question “After your researches and anatomical experience are you ready to swear that Mrs. Hendrickson was poisoned by *aconite*?”

Answer. “In my opinion she was poisoned by *aconite*.”

Dr. S. further testified that—

“The *post-mortem* appearances of the stomach and intestines, and those of the animals killed with *aconite*, are not produced by any other substance known to him; and that he knows of no disease which will produce such appearances.”

In examining the chemical evidence, we must first express our regret that the details of the processes employed by Dr. Salisbury are so imperfectly given. We can only judge of the correctness of the results from the very meagre account presented in the evidence as published.* We shall, how-

* We assume, however, that the evidence of Dr. S. is correctly printed, as it was done at the place of his residence, and contains notes by himself, added after his testimony was given.

ever, if we mistake not, discover such errors in the proceedings as to vitiate in a great degree, if not wholly, the conclusions which are drawn from them. We are first given to understand, that with "a small portion of the mucous surface of the stomach and duodenum," Dr. S. first tested for *prussic acid*, then for *some of the mineral poisons*, (arsenic, corrosive sublimate, the antimonial compounds, the mineral acids, muriatic, nitric and sulphuric,) then oxalic acid; also for *morphine, strychnine, stramonine, (daturia?)* and also "for other poisons," but without success. These various processes, we presume, must have taken a considerable portion of the "small portion of mucous membrane" employed. We have no means of judging of the accuracy of the tests employed, for few, if any, details whatever are given.

Dr. S. then states "that he tested for *aconite*, and found it by proceeding as follows: He took, as before, a small portion of stomach and duodenum, digested it in alcohol over a water-bath, then filtered, evaporated the filtrate partially; the oily matter rose to the surface; this he separated by decantation, and then absorbed it from the surface by bibulous paper; then mixed the solution with purified animal charcoal, agitating for some time after mixing, filtered, and applied his acid tests as follows: First, he boiled a small portion of the solution with sulphuric acid; the solution was turned a *deep port-wine red color*; then the same process with hydrochloric acid gave a *light port-wine red color*; then with nitric acid, and the solution remained clear; and from these tests, Dr. S. says, "*he inferred the presence of aconitine*," but on what grounds we are totally at a loss to discover. Sulphuric acid boiled with aconitine gives a *dark brown tint*, according to Taylor, instead of a *deep port-wine red color*; and animal matters, boiled with sulphuric acid, will give the latter color *without the presence of aconitine*; so say Taylor and the best authorities on legal medicines. (*Taylor on Poisons*, Am. Ed. p. 615.)

Prof. Emmons, in a published letter to Gov. Seymour, of New-York, states, as the result of his experiments, that "sulphuric acid, boiled with the tincture of aconite, obtained from the same sample as that supposed to have been sold to Hendrickson, *lost most of its red color*, and became quite pale; boiled with pure aconite the solution remained colorless, and the same result took place when boiled with nitric acid;" but that when he added oil or animal matters to the mixture of aconite, then he "obtained the red colors spoken of by Dr. Salishury, and the same also occurred *when he employed the same tests on these animal matters alone*."

We think there can, therefore, be no doubt whatever that the results arrived at by Dr. S. were entirely due to the presence of organic matters, and not to aconitine, although the color obtained by Dr. Emmons with sulphuric acid differs from that laid down by Taylor as resulting from a solution of pure aconitine.

But we are not called upon to reconcile this discrepancy; our aim is merely to show the incorrectness of the inference that aconitine was discovered by the process employed by Dr. S.*

To confirm the conclusion arrived at by these tests, Dr. S. then proceeded to separate a sufficient quantity of aconitine for experimenting with it on animals; and he "divided a portion of the remaining portions of the stomach and duodenum, and *their contents*, the small intestines, a portion of the

* Before commencing the analysis, it would have been as well, perhaps, to have tested the substances employed, and seen whether they were *acid or alkaline*.

liver, and a portion of the blood, into two equal parts ;" one of these he digested in alcohol over a water-bath, for several hours, " then filtered, partially evaporated, separated the oily matter by decantation and absorption, evaporated nearly to dryness, mixed pure caustic potassa with the alcoholic extracts, distilled, treated the distilled matter with dilute sulphuric acid, sufficient to neutralise it ; evaporated this over a water-bath, treated it with pure alcohol ; filtered and evaporated it nearly to dryness ; treated the residue with pure caustic potassa, and again distilled ; evaporated slightly, and set aside for future use."

The above process is that which was sometimes formerly pursued by chemists when examining for a *liquid and volatile alkaloid*, but why it should have been resorted to in the present instance we are at a loss to understand, as Dr. S. states, in his cross-examination, that he believes aconitine " is a *fixed body*." We are still more at a loss to know why Dr. S. did not test the matters obtained, in order to ascertain whether he had discovered aconitine or any other alkaloid by this process. He neither tasted of it, examined it with a microscope, or gave any of it to the lower animals.

But the course pursued by Dr. S., even on the supposition that a volatile alkaloid was present, is not one which will approve itself to the minds of scientific chemists as the most eligible.

In the first place, in examining the tissues of organs for a vegetable alkaloid, the organ should be divided into very small portions, then the mass moistened with pure alcohol, and expressed strongly ; and so, by further treatment, exhaust with alcohol the tissues of everything soluble ; then the liquid so obtained should be treated in the same way as a mixture of suspected matter and alcohol. Moreover, it is a principle now well established in medico-legal researches, that we should never use *animal charcoal* for decolorizing liquids, while searching for the alkaloids—for the very good reason that we, by so doing, may lose all the alkaloid in the suspected matter, animal charcoal having the power, as proved by M. Stas, of absorbing these substances, while, at the same time, it fixes the coloring and odoriferous matters. This error, then, would vitiate the results obtained by Dr. Salisbury, even were his other processes unexceptionable.

The true and only correct mode of proceeding, whether the alkaloid be fixed or volatile, would be that pointed out by M. Stas, who adopted it with such brilliant success in the case of M. Fougues, who was poisoned by his brother-in-law, Count Boearme, with *nicotine*. (See this *Journal* for Jan., 1854, p. 263, *et seq.*)

To the matter obtained by digesting the different organs suspected of containing the alkaloid with strong alcohol, twice their weight of pure alcohol should be added, and afterwards, according to the quantity and nature of the suspected matter, from ten to thirty grains of *tartaric* or *oxalic* acid should be added, (the *tartaric* is preferable,) we are then to introduce the mixture into a flask, and heat it to 160° or 170°. After it has cooled, it is to be filtered, the insoluble residue washed with strong alcohol, and the filtered liquor *evaporated in vacuo*; or, if the operator has not an air-pump, the liquid should be exposed to a strong current of air, at a temperature of not more than 90° F. If the residue, after the volatilization of the alcohol, contains fatty or other insoluble matters, the liquid should be filtered a second time, and then the filtrate and washings of the filter evaporated in the air-pump till nearly dry ; or, if no air-pump is at hand, it should be placed over

a bell-jar, over a vessel containing concentrated sulphuric acid. The residue is then to be treated with cold anhydrous alcohol, taking care to exhaust the substance thoroughly; and the alcohol should be evaporated in the open air, at the ordinary temperature, or, what would be still better, *in vacuo*. The acid residue should then be dissolved in the smallest possible quantity of water, and the solution introduced into a small test-tube, and a little pure powdered bicarbonate of soda, or potash, added, little by little, till a fresh quantity produces no further effervescence of carbonic acid. The whole should then be agitated with four or five times its bulk of pure ether, and left to settle; when the ether swimming on the top is perfectly clear, some of it should be decanted into a capsule, and left in a very dry place to spontaneous evaporation. We are now prepared to proceed to examine for a volatile or a fixed alkaloid, as the case may be; and no process less precise or carefully conducted, should be deemed worthy of confidence, in a case where life or death is hanging on the result.

Now if a *liquid alkaloid* be present, if we evaporate the ether, we shall have remaining on the inside of the capsule some small liquid striæ, which fall to the bottom of the vessel; and by the heat of the hand alone, the contents of the capsule will expel an odor more or less disagreeable, according to the nature of the alkaloid (if it possesses odor); it may be pungent, suffocating, irritant, or simply disagreeably narcotic, modified by an animal odor. If any traces of a volatile alkaloid be discovered then we should add to the contents of the vessel, from which we have decanted a small quantity of ether, one or two fluidrachms of water, acidulated with a fifth part of its weight of pure sulphuric acid, then agitate for some time, leave it to settle; pour off the ether swimming on the top, and wash the acid liquid at the bottom with a quantity of ether, as most of the sulphates of the alkaloids are insoluble in ether, and the others but partially so. The water acidulated with sulphuric acid will contain the whole, or a greater portion of the alkaloid in the solution, while the ether will retain all animal matters which it has taken from the alkaline solutions. To extract the alkaloid from the solution of the acid sulphate, an aqueous and concentrated solution of potash or caustic soda is to be added; the mixture is agitated and exhausted with pure ether; the ether dissolves the ammonia, and the alkaloid is now free. The ethereal solution is exposed, *at the lowest possible temperature*, to spontaneous evaporation; nearly all the ammonia volatilizes with the ether, and the alkaloids remain as residue; and in order to separate every particle of ammonia, the vessel containing the alkaloid is to be placed, for a few minutes, in a vacuum over sulphuric acid, and the organic alkaloid is obtained with all the physical and chemical characters belonging to it.

By pursuing the process above detailed, M. Stas succeeded in detecting *nicotine* in the blood from the heart of a dog, poisoned by a very minute quantity of this substance, introduced into the œsophagus. He also positively determined its existence in the blood generally, by the tests of *odor*, *taste* and *alkalinity*; also the chloroplatinate of the base *perfectly crystallized in quadrilateral, rhomboidal prisms*.

We believe if a volatile alkaloid had been present in the matters operated on by Dr. Salisbury, he could not have succeeded in detecting it by the processes which he employed.

Nor was the course pursued in relation to the second portion, which was examined for a *fixed alkaloid*, less liable to criticism. This was digested in alcohol, over a water-bath, for several hours, then filtered and partially eva-

porated ; the oily matter separated by decantation and absorption ; evaporated nearly to dryness ; the alcoholic extract treated with pure distilled water and filtered ; the filtrate evaporated nearly to dryness ; the water extract treated with dilute sulphuric acid and distilled water filtered ; then evaporated partially, and the solution treated with ammonia to a slight excess ; the precipitate formed was carefully washed with a small quantity of water, and redissolved in dilute sulphuric acid and distilled water. To this solution a *small quantity of purified animal charcoal* was added, then agitated for some minutes and filtered ; the filtrate evaporated slightly at a low temperature, and ammonia added in slight excess. The precipitate formed was washed with a small quantity of distilled water, and the result was mixed with that obtained by the former process ; “and in all there was about two-thirds of a teaspoonful,” it requiring four days and nights to complete the process.

The same fatal error was here committed as before, by using animal charcoal, supposing the alkaloid to be a fixed body. Going back to our first process, it may happen that the evaporation of the solution resulting from the treatment of the acid matter, to which bicarbonate of soda has been added, may leave or not a residue containing an alkaloid. If it does, then a solution of caustic potash or soda is to be added to the liquid, and it is to be agitated briskly with ether. This dissolves the vegetable alkaloid, now free, and remaining in the solution. In either case we exhaust the matter with ether ; and whatever be the agent that has set the alkaloid free, whether bicarbonate of soda, or potash, or caustic soda, or potash, it remains by the evaporation of the ether on the side of the capsule, as a solid body, or more commonly as a colorless, milky liquid, holding solid matters in suspension, and having the physical, chemical, and toxicological properties of that peculiar alkaloid.

After an alkaloid has been discovered the next thing which scientific accuracy demands is, that it should be obtained in a crystalline state, so as to determine its form ; and this is generally done by putting some drops of alcohol in the capsule with the alkaloid, and leave the solution to spontaneous evaporation. It may, however, be too impure, by contamination with foreign matters, to crystallize, when some drops of water, feebly acidulated, with sulphuric acid, should be poured into the capsule, and then moved over its surface, so as to bring it in contact with the matter in the capsule. The matter contained in it will separate into two parts, one formed of greasy matter, which remains adherent to the sides, the other alkaline, which dissolves and forms an acid sulphate. The acid liquid is then cautiously decanted, which ought to be limpid and colorless if the process has been well executed ; the capsule is then to be well washed with some drops of acidulated water, added to the first liquid, and the whole is evaporated to three fourths, *in vacuo*, or under a bell-jar, over sulphuric acid a concentrated solution of pure carbonate of potash is then added to the residue, and the whole liquid treated with absolute alcohol. This dissolves the alkaloid, while it leaves untouched the sulphate of potash, and excess of carbonate of potash. The evaporation of the alcoholic solution gives the alkaloid in crystals, if crystallizable. With regard to aconitine, it is apparently crystalline, the fragments, according to Pereira, appearing under the microscope like thin plates of chlorate of potash, varying greatly in shape, though the triangular form is most common. Dr. Pereira states that he could discover no distinct crystals. But Dr. Salisbury neither gives us the physical nor chemical properties of what he supposed to be aconite.

We have given the improved process of M. Stas of searching for the vegetable alkaloids, because of its superiority to former methods;* and it is now acknowledged by the ablest chemists as the most accurate of any yet known. We have seen that the evidence of the existence of aconitine, from the mode of proceeding, and the tests employed by Dr. S., is inconclusive, and comparatively worthless; and it is no less evident that that furnished by his subsequent analysis is equally valueless. It is so, because there is observable, through the whole processes, a departure from those rules which apply to such cases, and because the most common precautions for securing accuracy were neglected. The results, colorations, which were supposed to indicate the presence of aconitine, have been demonstrated to be owing to the action of the acids employed on organic matters. Reasoning by exclusion, which should be rigidly carried out in such cases, and to its utmost limits, would have led, and without much labor, to the correction of this first fatal error. If the substance found was aconitine, as believed, then, as no fact is better known than that this is a *fixed body*, why the very unscientific process of separating it by distillation, as a volatile substance? Dr. S. states, in his testimony, that he had made *aconite* a subject of particular study for two years previously, and yet he had not learned whether it was or not a fixed alkaloid; and that "he was not sure by which of his processes aconitine was obtained, as he tasted of neither before they were mixed." He might have been very sure he had not obtained it by distillation, for it was a chemical impossibility; he might have been pretty confident, however, that *ammonia* could thus be procured. We shall not, however, enter into a detailed criticism of the second analysis, because we conceive it to be unnecessary. With regard to the character of the precipitate formed, it is most probable that it was *phosphate* and *lactate of lime*, derived from the animal fluids employed in the analysis; but, as the physical and chemical characters of this precipitate are nowhere described, we are wholly left to conjecture. Here, at this point, by simple chemical methods, proof could have been accumulated which would have put the matter forever at rest; as it is, no one is satisfied, and every one is incredulous. All the first chemists of the country, including the Sillimans, Dana, Torrey, Chilton, Wells, Ellet, Bacon, Hayes, Porter, Kent, Emmons, Beck, &c., have published to the world their opinion, that in their judgment "no chemical result, stated by Dr. Salisbury, furnishes satisfactory evidence of the existence of aconitine or its compounds, in the fluids or organs submitted to examination."†

If the reader will compare the process of M. Stas, as we have detailed it, with that actually pursued by Dr. S., the inaccuracy and unscientific nature of the latter will be obvious. In his cross-examination, Dr. S. states that he believed that he obtained from 1-20 to 1-25 gr. of aconitine in the matters analyzed. Professor Emmons states that there does not exceed 1-38 gr. in 1 ounce of Burrough's tincture; and Dr. Reid stated, in his testimony, that he had found, by actual experiment, that there is 1-64 gr. in 1 ounce of the tincture. (It is only claimed that 1 ounce was given to Mrs. Hendrickson!)

Dr. S. stated that he tested the matter which he had obtained (the precipitate) by placing it on his tongue; that "it had a bitter taste, a sparkling (?) sensation at first, which turned into a numbness in a few minutes, producing a stiffness of the surface," &c. The substance, being the precipitate (1-25 gr.), to which a small quantity of water had been added, amounted, we

* Orfila on Nicotine. Paris, 1851.

† Albany Evening Journal, April 29, 1854.

are told, to "about two-thirds of a teaspoonful," probably. But a few drops of this was used for testing; if two drops then, but about 1-700 of a grain, was employed, to which these effects must have been owing; and this upon the supposition that the aconitine was equally distributed throughout the mixture. The whole remaining portion was administered to a *cat*, without any one present to notice the effects but himself, and the life of an individual hanging on the result!* The substance was given in small pieces of beef-steak. "In half an hour she exhibited a *choking sensation* and swallowing, followed by slight contraction of the muscles; twitchings, which moved the limbs slightly, and then a *tendency* to vomit; considerable stupor succeeded; she lay down on her side and breathed heavily, as if under the influence of a narcotic; this lasted some time; it gradually passed off, and in three hours she was well again."

This same cat was killed in one hour and a half, a week afterwards, by giving it *six drops of tinct. of aconite*. Symptoms: "swallowing, slight vomiting, weakness, and heavy, slow breathing." Post-mortem appearances identically the same as in the case of Mrs. Hendrickson, or, as Dr. S. testified, "they were so similar that it was almost impossible to distinguish a shade of difference between them." (P. 53.)

It certainly seems a strange anomaly, that while 1-25 of a grain of aconitine did not injure the cat materially, *six drops* of the tincture should have proved fatal!—the whole ounce, according to Professor Emmons, only containing but the 1-700 part of a grain, which would give about 1-56,000 of a grain in six drops. We do not vouch for the accuracy of this calculation; we only record it as one of the difficulties in the case.† Well did Mr. Wheaton, in his able defence, remark that "the cat should have died (by the first experi-

* In the case of Count Bocarme, M. Stas experimented with *nicotine* obtained, on small birds, as sparrows, which are extremely sensitive to the action of the vegetable alkaloids; and the remainder was carefully sealed and labeled, to exhibit at the trial, and for experiments before the jury. Such a course, we believe, is not unfrequently pursued on the continent, especially in Germany and France, and it is one which must commend itself to every lover of science and humanity.

† It is true, we have no precise information as to the quantity of *aconitine* contained in the root of the plant. Professor L. Reid, of N. Y., testified that he had obtained but one grain from one pound of the root, and believes that no more than that amount can be obtained. He also states that the taste of aconitine can be detected in 3-1,000 part of a grain. Professor Emmons expressed the opinion that 1 ounce of the *tincture of aconite* contains but 1-700 of a grain, allowing 2 ounces of the root to 16 ounces of alcohol. Dr. Burroughs, in a letter recently received from him, states that he followed the U. S. P. of 1850 in preparing his tincture, which directs one pound of the root to two pints of alcohol, which would give four times the strength as estimated by Professor E. But even this, on Professor Reid's estimate, would give less than 1-200 of a grain to 1 ounce of the tincture; but, as half a drachm of this tincture would be a hazardous and perhaps a fatal dose, and as this would be but the twenty-fourth part of an ounce, or the 1-4,800 part of a grain, we must acknowledge that there are some difficulties about these calculations which require to be cleared up. Dr. Pereira states that the one-fiftieth part of a grain of aconitine has endangered the life of an individual and that it is by far the most poisonous principle known. Professor Christison found 30 grains of an alcoholic extract kill a rabbit in two hours and a quarter; and this was the whole produce of three-quarters of an ounce of the fresh leaves. And, in another experiment, one-tenth of a grain introduced into the cellular tissue of a rabbit killed it in twelve minutes. Orfila gave five drachms to a dog, and it killed him in twenty-one minutes. But the results were very various in his experiments, which he accounts for from the different pharmaceutical processes employed in making the preparations. In one instance, *e. g.*, he gave half an ounce *extract of aconite* to a dog without any effect; in another case, one-fourth of an ounce of the extract killed a dog in two hours. All experimenters agree in the opinion that it is not *narcotic*, and Pereira found that it never produced stupor, or affected the mental faculties.

With regard to *animal charcoal* absorbing the active principle of aconite along with its coloring matter, Professor Emmons has stated that he "had employed the *tincture of aconite* as the substance operated upon, and had not only insulated the active principle in the charcoal itself, but had subsequently dissolved it out by means of alcohol."—*Letter to Gov. H. Seymour of New-York, in Alb. Eve. Journal, April 29, 1854.*

ment) out of deference to the doctor's opinion ; or the doctor should have given up his opinion out of deference to the life of the cat."

We have not designed to offer any comments upon the *moral* evidence submitted in this case—any further, at least, than it is connected with the medical and legal evidence. We may, however, be allowed to say, that it lends little or no confirmation to the belief that poison was administered to Mrs. H. It was not proved that the prisoner ever purchased aconite, knew of its properties, or had it in his possession. The charges brought against his moral character, in the opening speech of the prosecuting attorney, particularly in regard to his having had gonorrhœa, and having imparted the same to his wife, were wholly unsustained by any evidence offered on the trial. The object aimed at, viz: prejudicing the minds of the jury against the prisoner, was, however, perhaps as fully attained as if the charges had been proved. There was no evidence that any vomiting had taken place ; indeed, everything went to show that it had not ; the countenance of the deceased was mild and placid ; no distortion, no disheveling of the hair, no wrinkle or spots on her clothes, no signs of violence upon the exterior of the body, no marks of suffocation ; the deceased lay as if asleep, and everything in the room in the same condition as when she retired to rest. This does not look like severe vomiting, or death from violence—unless, possibly, from chloroform—but this is not charged. The Judge, (Marvin,) in his charge to the jury, seems to take the ground that if the medical witnesses called for the defence could not prove what was the actual cause of death, it was right to assume that the deceased came to her death by violence on the part of her husband ! "It would be more satisfactory," he says, "if these medical witnesses had assigned some natural cause for her death ;" as if the burden of proof rested on the prisoner, instead of the people, although he expressly disclaims any such ground. We confess that the case is enveloped in considerable mystery, but no more than enshrouds hundreds of cases of sudden death. We were called once to see a lady who, in the enjoyment of a comfortable state of health, while attending a social gathering at her own house, was seized with a fainting fit, and died, in spite of all the means employed before our arrival. We made a careful *post-mortem* the next day of all the vital organs, but there was no cause of death discoverable. The walls of the heart were thinner than usual, and syncope was occasioned by violent mental emotion, which resulted fatally. We have known several cases of sudden death from syncope, without any *post-mortem* lesion sufficient to account for the death. Fatal cardiac asthenia may be produced by mental emotions, and no *post-mortem* change or lesion discovered. It may have been so in the present instance. There was considerable *uterine* disease, as ulceration and congestion of the os uteri, and leucorrhœa ; sympathetic disturbance of the heart may have been occasioned by mental emotion acting upon this predisposition, and death occurred, as in the case already alluded to. Or she may have inhaled chloroform to relieve pain, of which she had complained much during the day ; or she may have taken an overdose of *homœopathic* pills of aconite, of which she had a considerable quantity on hand just before her death, and which she carried in her pocket, of which none were found afterwards.* Many causes might be assigned to account for her death, any one of which would be more probable than that she was poisoned by an ounce of tincture of aconite. There is one fact stated by the Judge in his charge, as of very great importance, and one

* It is also held by some pathologists that death may suddenly occur from apoplectic congestion of the brain, and cerebral fullness disappear after death.

which we have not as yet particularly noticed, and that is, a small *ecchymosis* or bruise on the inside of the lip. The Judge says this "furnishes overwhelming evidence of guilt to his mind." Dr. Swinburne describes it in his testimony as "a black and blue bruise, between the size of a sixpence and a ten cent piece, inside of the lower lip, and a little to one side; in it there was a cut about a quarter of an inch long; it must have occurred before death." This slight mark is exaggerated into a degree of importance it does not deserve. It was proved by the mother that the deceased complained two days before her death of a sore on the same lip. The evidence that the *ecchymosis* was caused during life is by no means satisfactory; indeed, no evidence is gone into, or facts detailed, which have any bearing on this point. It is stated by the mother that violent attempts were made by her to open the mouth, for the purpose of administering a little camphor and water, as soon as it was discovered that her daughter was dead; and probably this was not long after she ceased to breathe. The *ecchymosis* may have been thus produced, though we think it more probable that it existed before death. Such marks, moreover, are not unfrequently caused by the teeth during a convulsive paroxysm. Standing alone, it by no means proves any violence on the part of the accused.

Another feature in this trial is worthy of mention, perhaps, and that is the great importance attached to the confident and positive statements of Drs. Swinburne and Salisbury, both young men, and comparatively inexperienced, and the little weight which seems to have been allowed to the more careful and judicious testimony of Drs. Emmons and Staats, men of age, professional skill and enlarged experience. * The *positive* statements of the former would probably, with such a court and jury, have outweighed the negative testimony of all the first pathologists and chemists of the age. The result shows very clearly the importance of qualifying and guarding our statements and opinions, where facts will allow of another interpretation, and where they fall short of actual demonstration.

We have thus successively passed in review the most important features in this interesting trial, and made such comments as seemed to us appropriate to the occasion. We know none of the parties, nor are we influenced by any personal considerations whatever. Medico-legal science demands thus much, at least, at our hands. If we have spoken with undue severity, in regard to any testimony offered, it will ever be to us a source of regret. But the interests of science and humanity require that the medical and chemical evidence, on the strength of which the life of a human being has been taken, should be closely scrutinized, and in all the lights which observation, reason, common sense and true science may furnish us. The case will stand as a precedent in medico-legal questions that may hereafter come before our courts. It is all-important to know whether the questions it involves have been decided correctly or not; whether it may be referred to as a safe or an unsafe precedent for witnesses, courts and juries in future times. We have sufficiently indicated our opinion. We are ready, however, to retract whenever our reason is convinced that we have been led into error—not before. It is in vain, for it is too late, to lament the probable sacrifice of an innocent man; but if what we have written serves but to throw an additional safeguard hereafter around the wrongfully accused, our purpose will have been fully accomplished. We will venture one remark more. It seems to us no less strange than lamentable, that in a case which appears to have rested solely on anatomical, or pathological and chemical evidence, the counter

opinions and statements of the leading men in these departments of science in the country should have had so little weight with the executive or judicial power as not to lead to a commutation of punishment, nor even to an order for a new trial, which was demanded. We pretend not to fathom the hearts or the motives of men, but we think we see in the present instance an example and illustration of the force of outward pressure—of popular excitement and prejudice—on witnesses, counsel, judges and jury, which makes us question, at times, whether the boasted right and privilege of trial by jury, be, indeed, a blessing or a curse.

C. A. L.

REMARKS OF DR. COVENTRY,

At the Annual Meeting of the State Medical Society, held at the Capitol in the city of Albany, on the 9th day of February, A. D. 1855.

On the question of referring Dr. Lee's review of the trial of Hendrickson to the publishing committee, Dr. Coventry observed—That having for several years lectured upon the subject of medical jurisprudence, his attention had been drawn to the published report of that trial, and that he had been particularly struck with the unsatisfactory nature of the medical testimony, on which the prisoner had been convicted. If medical men are called as experts, it is of the utmost importance to the cause of justice, as well as the character of the profession, that their testimony be in accordance with well established principles of jurisprudence.

The rigid condition of the body, which seems to be relied on as evidence of poison, for aught that appears in evidence was only the *rigor mortis*, which is a common phenomena in cases of sudden death. Cases of poisoning by *aconite* are so rare that we have no positive evidence of the cadaveric appearances; but in all the cases he had seen of poisoning from the muriatic-acrid poison, instead of the great pallor and calm expression there was great distortion, a bloated and congested countenance, and such is the description given of poison from such substances. It appears from the testimony that the patient complained of severe headache the evening previous, and, in the absence of any evidence on the subject, probably retired without eating in the evening; this would account for the empty condition of the stomach and upper intestines, as well as the contracted state of the organs. As to the vascularity of the stomach, it does not appear that it was greater than has often been found in persons who have been excited. It is an admitted *axiom* in medical jurisprudence, that in case of suspected poison from arsenic the only certain test of its presence is its reduction to a metallic state, and that the numerous other tests so often repeated are only presumptive evidence; and yet the evidence must be infinitely stronger than any chemical tests for *aconite*, about which so little is known.

He knew nothing of the moral evidence, but looked only at the medical evidence of poisoning by *aconite*, and he was forced to admit that, to his mind, it did not carry a *shadow of proof*, and he hoped the review of the trial would be published.

[The review was unanimously adopted by the Society, and Dr. Lee was requested to furnish abstracts of it to the publishing committee.]

From the Boston Medical and Surgical Journal, May, 1854.

One of the most interesting cases of medical jurisprudence which has transpired in this country occurred during the past summer in the city of Albany, N. Y. The case, apart from that general feeling of interest which is naturally excited by the occurrence of crime, mysterious and baffling in its accessory circumstances, has a claim upon our attention in two respects. First, because it involves a discussion of the properties and effects of that most subtle vegetable alkaloid poison, aconitine, the agent charged to have been used by the prisoner in effecting the murder; and, second, because the whole case exhibits an amount of ignorance and carelessness on the part of the public authorities, and of gross assumption and charlatanry on the part of the professional witnesses, which is neither creditable or flattering to our science or humanity. * * * *

But the great fact which stands prominent, and makes this case so marked and so interesting, is that the conviction was obtained mainly, and we may say entirely, upon the evidence of Drs. Swinburne and Salisbury, who, as scientific experts, gave opinions which cannot be sustained before any jury of chemists or physicians. * * * *

In reading the evidence as given by the so-called scientific witnesses, and in noticing the self-confident manner in which they express their opinions on subjects, which, by general acknowledgment, are among the most difficult in modern science, we are reminded of the proverb, "Fools madly rush where angels fear to tread."

CONCLUSION.

In closing our labors, an imperative sense of justice requires that we should apologise to Professor Wells, of Springfield, Massachusetts, for not publishing in connection with foregoing Review, &c., his very able review of the testimony of Drs. Swinburne and Salisbury in this case.

Our reasons for not doing it, are, that we believe it is substantially and fully, to every intent and purpose, embraced in that of Dr. Lee's, which has other very important matter, that we have not felt ourselves at liberty to exclude, and not deeming it necessary to publish more than one embracing the same ground, we have preferred that of Dr. Lee. Also for another reason, that the important and substantial parts of it were to be published in the Transactions of the New-York State Medical Society for eighteen hundred and fifty-four, which for some reason or other has not been done. It is probably well enough to note here the fact, that the testimony of Salisbury and Swinburne has, from the beginning, stood opposed by all the prominent chemical and medical men in the country, while the testimony of Drs. Emmons, Staats and Reid has been sustained, and corroborated in every respect; and yet, in the face of such a state of things, Governor Seymour thought it a commendable and praiseworthy act not to interfere, in any way, to save an unfortunate young man from an ignominious fate. Comment is unnecessary, and we quit the subject.

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